



**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,  
CHIEF JUSTICE**

**&  
HON'BLE SHRI JUSTICE VINAY SARAF**

**MISC.PETITION NO. 5575 OF 2024**

***JYOTINDER SINGH SALUJA***

***Versus***

***BHARAT HEAVY ELECTRICAL LTD.***

***AND***

**MISC.PETITION NO. 6415 OF 2024**

***SMT.PREETI KAUR SALUJA***

***Versus***

***BHARAT HEAVY ELECTRICAL LTD.***

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**Appearance:**

Shri Manoj Kumar Sharma – Senior Advocate with Shri Abhishek Khare –  
Advocate for the petitioner.

Shri Ashok Lalwani – Senior Advocate with Shri Abhishek Singh -  
Advocate for the respondent.

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**Reserved on – 15.09.2025**

**Pronounced on – 19.12.2025**

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**ORDER**

***Per: Justice Vinay Saraf:***

1. This order will dispose of M.P.No.5575/2024 and M.P.No.6415/2024 as the issue involved in both the petitions are identical.



2. These Misc. Petitions have been preferred by the petitioners being aggrieved by the orders passed by Principal District Judge, Bhopal in R.C.A.No.66/2023 and 67/2023 on 18.09.2024; whereby the learned District Judge dismissed the appeals preferred by the petitioners assailing the order dated 15.06.2023 passed by the Estate Officer, Bharat Heavy Electricals Limited (BHEL) Bhopal in Case No.3940/2022 and 3938/2022 under section 5(1) and 7 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971 directing the eviction of the petitioners from the lease premises and recovery of the arrears of licence fee till delivery of the possession.
3. With the consent of parties, arguments heard for the purpose of final disposal of the petitions.
4. Heard Shri Manoj Kumar Sharma, learned Senior counsel for the petitioner and Shri Ashok Lalwani, learned Senior counsel for the respondent.
5. For the sake of convenience, the facts are being taken from M.P.No.5575/2024.

#### **SHORT FACTS OF THE CASE**

6. The short facts of the case are that the petitioner was allotted industrial plot no.6, area 12500 sq. ft. on licence basis in the ancillary area, Habibganj, BHEL, Bhopal on 23.01.2009 for a period from 01.04.2003 to 31.03.2011 for the purpose of carrying on the business of sawmill and stone. Certificate of licence was issued in favour of petitioner and licence deed was also executed on 23.01.2009. Originally the petitioner's father was allotted the plot in the year 1979 and thereafter



he constructed temporary structure for operating industrial activity and started manufacturing of wooden and stone furniture etc. After expiry of the licence on 31.03.2011, the petitioner applied for renewal of licence period as per the licence deed, however, without any execution of renewal deed or any communication of renewal of licence, the petitioner continued its operation till 2021-2022 and the respondent was charging licence fee without any demur.

7. The respondent introduced a new Shop Policy, 2014 and thereafter made the demand of licence fee of Rs.3,84,820/- per month @ 30.785 sq. ft. per month from the petitioner, which was not paid by the petitioner, therefore, the notice was issued to the petitioner requiring to renew the licence by paying the deficit licence fee from 2018 to 2022. Petitioner raised objection and refused to pay the enhanced licence fee. Consequently, the respondent on 04.11.2022 initiated the proceedings under sections 5 and 7 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971, (hereinafter referred to as “the Act, 1971”) which was registered as Case No.3940/2022 upon the allegation that the licence period of petitioner has already been expired and petitioner has not handed over the vacant possession of the land to the respondent and not made the payment of the balance licence fee. The Estate Officer issued a notice to the petitioner under section 4 of the Act, 1971 and thereafter passed the final order on 15.06.2023 by which the Estate Officer has allowed the application of the respondent and directed the petitioner to vacant the premises and handover the possession of the same to the respondent and to pay the amount to the tune of Rs.2,38,49,561/- towards arrears of licence fees and damages. The



petitioner challenged the order passed by the Estate Officer in Regular Civil Appeal No.66/2023 before Principal District Judge, Bhopal.

8. After hearing both the parties, the Principal District Judge by order dated 18.09.2024 dismissed the appeal preferred by the petitioner and upheld the order passed by the Estate Officer.
9. The order passed by the Estate Officer and the Principal District Judge are under challenge in the instant misc. petition filed under Article 227 of the Constitution of India.

#### **SUBMISSION ON BEHALF OF PETITIONER**

10. Shri Manoj Kumar Sharma, learned Senior counsel for the petitioner submits that originally the petitioner's father established the shop in the year 1979 and the licence was issued to the father of petitioner from 29.09.1979 to 18.11.1984. Thereafter it was renewed from time to time and after the death of the father, the licence was renewed in the name of petitioner till 31.03.2011. After expiry of the period, the petitioner submitted several applications for renewal of the licence but the same were not responded and during this period the respondent demanded monthly licence fee from the petitioner for using the premises without any formal renewal of licence till December, 2018. A notice was issued on 24.04.2019 demanding outstanding licence fee of Rs.89,649/- along with GST, however, thereafter on 06.07.2020 another notice demanding Rs.92,18,013/- along with GST was issued and by communication dated 21.07.2022 the licence was finally cancelled by the respondent. On 04.11.2022 an application under section 5 and 7 of the Act, 1971 was filed before Estate Officer, BHEL, Bhopal



demanding the licence fee from 01.08.2018 to 24.07.2022 @ Rs.3,84,820/- per month.

11. Learned Senior counsel further submits that the new Shop Policy, 2014 is not applicable to the subject premises as the petitioner is running an industry situated in ancillary industrial area of BHEL and it is not situated in residential area. The petitioner is not running any shop and he is using the land for industrial purposes, therefore, the Shop Policy is not applicable to the case in hand. He further submits that the petitioner's industry has been registered as MSME and since 1979 the petitioner is running industry there. He further submits that the vacant land was originally allotted and as per Clause 2.4 of the Shop Policy 2014, the policy is not applicable to any allotment of land for industrial purposes. Clause 3.1 provides that shop means any space/place where commercial/trading activities are carried out. The petitioner was allotted the open plot as per licence and there is no permanent construction raised upon it, therefore, as per Clause 4.3 of the Shop Policy, 2014 the same is not applicable to the petitioner. He further submits that licence was cancelled on 21.07.2022 before that the petitioner never accepted the enhanced licence fee and respondent has unilaterally enhanced the licence fee from 2018, which is not permissible under the law. He further submits that the provision of the Act, 1971 is abused and misused by the respondent and an eviction warrant was issued on 21.09.2024 and was executed on 22.09.2024 by the concerned officers of the respondent and the premises is sealed by the respondent and except the permission granted by this Court for removing certain articles, the petitioner is not permitted by the



respondent to use the premises. Though the respondent is not having any general lien upon the belongings of the petitioner but the premises has been seized illegally.

### **SUBMISSION ON BEHALF OF RESPONDENT**

12. Learned Senior Advocate Mr. Ashok Lalwani appeared on behalf of the respondent vehemently opposed the petition on the ground that the scope of interference in the orders passed under the provisions of the Act, 1971 is very limited under Article 227 of the Constitution of India and normally the petition should not be entertained. He relied upon the judgment delivered by the Supreme Court in the case of **Hameed Kunju Vs. Nazim**, (2017) 8 SCC 611, the judgment delivered by the Coordinate Bench in the matter of **Mohd.Saleem Vs. Bharat Heavy Electricals Limited and another** (W.P.No.5379/2014) and judgment of Delhi High Court in **B.K.Bhagat Vs. New Delhi Municipal Council** (W.P.(C) No.3417/2015)
13. He further submits that the lease period was admittedly expired in the year 2011 and thereafter several notices were issued to the petitioner for renewal of licence. In the year 2014, the respondent introduced the Shop Policy, 2014 and thereafter the notices were served upon the petitioner on 12.11.2018, 04.12.2018, 24.04.2019 and 06.07.2022 for payment of arrears of licence fee and to submit a fresh application for renewal of licence in accordance with Shop Policy, 2014, however, the petitioner failed to comply with the notices and thereafter the action was taken against the petitioner for obtaining the possession from the petitioner as his possession was unauthorised after the expiry of the



licence period. The application was submitted under the provisions of the Act, 1971 before the competent Estate Officer under sections 5 and 7 of the Act for recovery of possession as well as arrears of licence fee and damages. After issuance of notices, affording opportunity of hearing and recording oral evidence, the Estate Officer passed the order on 15.06.2023 in accordance with law and directed to handover the vacant possession of the licenced land to the respondent within a period of 15 days and also directed to pay the amount of arrears of licence fee and other charges to the tune of Rs.2,38,49,561/-. The order passed by the Estate Officer was challenged by the petitioner in appeal preferred under section 9 of the Act, 1971 before the Principal District Judge, Bhopal and the Principal District Judge by order dated 18.09.2024 dismissed the appeal and upheld the order passed by the Estate Officer. Thereafter on 21.09.2024 warrant of possession and recovery was issued and after following the procedure the premise has already been sealed on 24.09.2024 and the respondent has right to attach the valuable articles lying in the subject premises as per provisions of section 6 of the Act, 1971. He submits that petition has already been rendered infructuous and is liable to be dismissed.

14. Learned Senior counsel further submits that in respect of the orders of payment of damages are concerned, the petitioner has already challenged the said order separately in Writ Petition No.10592/2025; wherein the relief was sought for quashing the demand of Rs.2,38,49,561/-, which was dismissed by the learned Single Judge by order dated 26.03.2025 and therefore, the challenge as to the recovery



part is concerned, is not maintainable considering the principles of *res judicata*.

15. He further submits that the respondent has violated the Shop Policy of 2014 and prescribed that the licence fee would be prevalent to market rental value and the said policy has been upheld by the Coordinate Bench of this Court in **Aziz Khan (Miyan) and others Vs. Union of India and others (Writ Petition No.11190/2016)** and therefore, the Estate Officer has not committed any error in granting the damages as per the provisions of Shop Policy, 2014 and there was no need to hold any inquiry to assess the market rental value. He further submits that the damages are penal in nature and therefore, the damages may be awarded more than the market rate and after expiry of the licence period, the possession of the petitioner was akin to a trespasser and therefore, the petitioner is liable to pay damages and interest as per Section 7 of the Act, 1971. He prayed for dismissal of the petition.

### **CONSIDERATION**

16. Having heard the learned counsel for the parties and on perusal of the record, the following issues are emerges in the instant petition :-
  - (A) Whether the possession of the petitioner is unauthorized and the order of eviction is legal and justified?
  - (B) Whether the petitioner is liable to pay damages as per the provisions of Shop Policy, 2014?
17. In so far as the preliminary objections raised by the learned counsel for the respondent are concerned, Misc. Petition under Article 227 of





Constitution of India is maintainable against the order passed by the appellate authority under section 9 of the Act, 1971 and correctness of the order can be considered by this Court. The judgment relied by the learned Senior Advocate delivered in **Hameed Kunju (supra)**, **Mohd.Saleem (supra)** and **B.K.Bhagat (supra)** are not helpful as in none of the judgments it is held that Misc. Petition under Article 227 of the Constitution of India is not maintainable against an order of eviction passed under the provisions of the Act, 1971 and upheld by the appellate authority.

#### **DISCUSSION ON ISSUE (A)**

18. It is not in dispute in the present case that the petitioner obtained the open land for the purpose of sawmill and stone and lastly the licence was renewed by the respondent on 23.01.2009 for a period from 01.04.2003 to 31.03.2011 in the ancillary area of BHEL. Earlier the licence was granted to the father of the petitioner and since 1979 he is running the business of sawmill and stone there. It is also not in dispute that after expiry of the licence period on 31.03.2011, the licence was not renewed and no fresh licence deed was entered between the parties. At the same time it is not the case of respondent that after expiry of the period of licence, the respondent revoked the permission to use the premises before 12.11.2018 when a notice was issued to the petitioner intimating that till October, 2018 Rs.31,516/- were due towards the usages and other charges and the petitioner was called upon to make payment of the due amount within a period of 7 days. Thereafter, second notice was issued on 07.04.2018; wherein for the first time it is



mentioned that the period of licence has already expired and due to failure of the petitioner to get licence renewed, his possession has become unauthorized. Though the petitioner applied for renewal but the licence was not renewed and no fresh licence deed was executed in favour of the petitioner. After issuance of notices, the application was moved by the Estate Officer under the purview of Act, 1971 during the petitioner has unauthorised occupant.

19. Provisions of Section 2(g) of the Act, 1971 are relevant, which reads as under:-

*“2.(g) “unauthorised occupation”, in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.”*

20. As per the definition of unauthorised occupation provided in section 2(g) of the Act, 1971 if the authority to occupy the premises has expired or has been determined for any reason whatsoever, the occupation by any person in the public premises is unauthorised occupation.
21. In the case in hand, in the year 1979 the open land was provided to father of the petitioner and since then till 31.03.2011 the licence was renewed in favour of the father of petitioner and later on in favour of the petitioner but thereafter the same was not renewed. Therefore, the possession of the petitioner has turned into unauthorised occupation.
22. Section 5 of the Act, 1971 provides that if a person is in unauthorised occupation, the Estate Officer after issuance of notice under section 4



of the Act and providing the opportunity of hearing and producing the evidence to the person, upon being satisfied that the public premises is in authorised occupation may pass an order of eviction against such person.

23. Section 5 of the Act, 1971 reads as under :-

*“5. Eviction of unauthorised occupants.—(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under sub-clause (ii) of clause (b) of sub-section (2) of section 4, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer shall make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order but not later than fifteen days from the date of the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises:*

*Provided that every order under this sub-section shall be made by the estate officer as expeditiously as possible and all endeavour shall be made by him to issue the order within fifteen days of the date specified in the notice under sub-section (1) or sub-section (1A), as the case may be, of section 4*

*(2) If any person refuses or fails to comply with the order of eviction on or before the date specified in the said order or within fifteen days of the date of its publication under sub-section (1), whichever is later, the estate officer or any other officer duly authorised by the estate officer in this behalf may after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary*

*provided that if the estate officer is satisfied, for reasons to be recorded in writing, that there exists any compelling reason which prevents the person from vacating the premises within*



*fifteen days, the estate officer may grant another fifteen days from the date of expiry of the order under sub-section (1) to the person to vacate the premises.*

24. When the licence deed was not renewed and repeated notices were issued to the petitioner for taking active action for renewal of licence, upon failure of the petitioner to get the licence renewed, after issuance of notice, an application was moved under sections 5 and 7 of the Act before the Estate Officer on 04.11.2022 seeking possession of the premises as well as recovery of the arrears of licence fee and damages. The Estate Officer was under obligation to issue notice to the petitioner before passing any order and the Estate Officer issued show cause notice to the petitioner under section 4 of the Act and petitioner filed his reply on 24.12.2022 denying the allegations levelled in the application. Thereafter, the respondent examined his witness Mr. Radhavallabh Verma and produced as many as 31 documents in his evidence, who was duly cross-examined by the counsel for petitioner and petitioner also examined himself as defence witness in the case and after providing full opportunity of hearing to the parties, the Estate Officer passed the order on 15.06.2023 directing the petitioner to handover the vacant premises of land within a period of 15 days and pay the arrears of licence fee and damages.
25. The petitioner challenged that order in appeal under section 9 of the Act, 1971 before the Principal District Judge, Bhopal, which was dismissed by judgment dated 18.09.2024 and the premises has already been sealed by the respondent in furtherance of the possession warrant issued by the Estate Officer on 22.09.2024.



26. In view of the above facts and considering the provisions of section 2(g) of the Act, 1971 we are of the considered view that the possession of the petitioner has turned into unauthorised occupation as the licence was not renewed at any time after 31.03.2011. Though the respondent accepted the licence fee till 2018 but the same could not be treated as implied renewal of licence.
27. Reference may be had to the judgment of the Supreme Court in the case of **Shanti Prasad Devi Vs. Shankar Mahto (2005) 5 SCC 543**; wherein the Supreme Court has held that mere acceptance of the rent offered by the licensee will not amount to implied renewal of lease.
28. The impugned order reflects that the petitioner was given due notice and opportunity to defend his case and the Estate officer has recorded the findings of fact that the licence period of petitioner has already been expired and the possession of the petitioner has become unauthorised. We find no error in the findings of the Estate Officer in reaching to the conclusion that the petitioner is an unauthorised occupant of the premises in question and in passing the order of eviction under section 5(1) of the Act of 1971. Nothing has been pointed out to show that there was any breach of procedure or violation of principles of natural justice while passing the impugned order dated 15.06.2023 by the Estate Officer. Similarly, the Estate Officer has not committed any error in issuing the eviction warrant on 21.09.2024 after the dismissal of the appeal preferred by the petitioner under section 9 of the Act before Principal District Judge, Bhopal.



29. The counsel for respondent has already pointed out that the said eviction warrant has already been executed and the premises has been sealed on 22.09.2024.
30. Under these circumstances, the order of eviction passed by the Estate Officer and upheld by the Principal District Judge does not require any interference in this petition and appears to be legal, just and proper. The issue is answered in above terms.

#### **DISCUSSION ON ISSUE (B)**

31. The learned Senior Advocate submits that the petitioner had challenged the order of recovery of damages in Writ Petition No.10592/2025, which was dismissed by the learned Single Judge by order dated 26.03.2025, therefore, the said issue cannot be raised in the present matter and due to applicability of the principle of *res judicata*, the same is not maintainable. We have perused the order passed by the learned Single Judge in Writ Petition No.10592/2025 dated 26.03.2025 and from perusal it reveals that the learned Single Judge dismissed the petition mainly on the ground that in that writ petition, the petitioner challenged the order of issuance of possession warrant and recovery warrant, which are not under challenge in the instant Misc. Petition, which is already pending. The learned Single Judge held that the petitioner cannot be permitted to challenge the said order by filing separate writ petition and consequently, on the ground of pendency of this Misc. Petition, the subsequent petition i.e. Writ Petition No.10592/2025 was dismissed as not maintainable, therefore, the issue



was not finally decided on merits in that petition and principle of *res judicata* is not applicable. Hence, the said objections are not sustained.

32. Section 7 of the Act, 1971 provides that the Estate Officer is empowered to pass an order for payment of rent of damages in respect of the public premises.
33. Section 7 of the Act, 1971 as under :-

*“7. Power to require payment of rent or damages in respect of public premises.—*

*(1) Where any person is in arrears of rent payable in respect of any public premises, the estate officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.*

*(2) Where any person is, or has at any time been, in unauthorised occupation of any public premises, the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order.*

*(2A) While making an order under sub-section (1) or sub-section (2), the estate officer may direct that the arrears of rent or, as the case may be, damages shall be payable together with compound interest at such rate as may be prescribed, not being a rate exceeding the current rate of interest within the meaning of the Interest Act, 1978 (14 of 1978).*

*(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within seven days from the date of issue thereof, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer.*

*(3A) If the person in unauthorised occupation of residential accommodation challenges the eviction order passed by the estate officer under sub-section (2) of section 3B in any*



*court, he shall pay damages for every month for the residential accommodation held by him.*

*(4) Every order under this section shall be made by the estate officer as expeditiously as possible and all endeavour shall be made by him to issue the order within fifteen days of the date specified in the notice.”*

34. Section 7 provides that if any person is in arrears of the rent payable in respect of the public premises, the Estate Officer may pass the order for payment of the said amount and section 14 provides that if the person refuses to pay the rent payable under sub-section (1) of section 7 or the damages sub-section (2) of section 7, the same can be recovered as arrears of the land revenue.
35. So far as the arrears of licence fee is concerned, the petitioner was under obligation to pay the licence fee as agreed. It is accepted by both the parties that the licence fee was payable on monthly basis and till 31.03.2011 the licence fee was Rs.3125/- per month and after adding the increment of 5% the monthly licence fee for 01.04.2011 to 31.03.2012 was Rs.3218/- per month. There was increase of 5% in the monthly licence fee every year and lastly the licence fee was paid by the petitioner @ Rs.3718/- per month. So far as the payment of arrears of licence fee is concerned, the petitioner is liable to pay the arrears as per the agreed rate till 22.09.2024 when the premises was sealed by the respondent.
36. So far as the grant of damages to the respondent by the Estate Officer in terms of the Shop Policy of 2014 is concerned, the provision of section 7 (2) of the Act, 1971 is relevant, which authorises the Estate Officer to pass an order for payment of damages against any person,





whose possession is found unauthorised in any public premises. For the purpose of granting the damages, the Estate Officer is under obligation to assess the damages on account of use/occupation of said premises. The respondent and the Estate Officer heavily relied upon the provisions of Shop Policy, 2014. The petitioner has raised several grounds in the instant petition and submits that the shop policy, 2014 is not applicable to the subject premises as the subject premises is situated in ancillary industrial area and the petitioner is running an industry there, which is duly registered with Ministry of Micro, Small and Medium Enterprises as MSME unit. By referring the various provisions of the Shop Policy, 2014, the petitioner tried to establish that the policy is not applicable. Clause 2.4, 3.1 and 4.3 were referred by the petitioner to bolster his arguments and in counter, the learned Senior Advocate appearing on behalf of the respondent submits that the legality and validity of the Shop Policy has already been upheld by the Coordinate Bench in **Writ Petition No.11190/2016 (Ezaz Khan (Miyan) and others Vs. Union of India and others)** by order dated 25.10.2017 and therefore, the respondent is entitled to claim the damages as per the provisions of Shop Policy. He further submits that the Shop Policy is applicable to the case in hand as the petitioner is running commercial and trading activity in the subject premises.

37. Clause 2.4 of the Policy provides that the policy is not applicable to any allotment of vacant land, however, Clause 3.1 provides that if a land is allotted for the purpose of commercial/trading activities, the same will fall under the purview of “Shop”. Clause 4 provides that the provision



of Shop Policy will be applicable to the fresh allotments or at the time of renewal of existing licence.

38. In the instant case, admittedly no licence deed was executed in furtherance of the Shop Policy, 2014 in favour of the petitioner and the petitioner is running MSME Industrial Unit. No document was executed between the parties to bring the existing licence to the model license agreement and the parties never entered into any contract in accordance with the Shop Policy, 2014. Therefore, without commenting upon the applicability of the Shop Policy, 2014 to the subject premises, we hold that the petitioner was not liable to pay the licence fee as per the provisions of Shop Policy, 2014.
39. Whether the damages could be granted as per the terms of the Shop Policy, 2014, the legal position in respect of the grant of damages is well established that if an owner of the premises claims damages on account of failure of the occupant to handover the vacant possession of the premises after expiry of the lease/licence period, the owner is under obligation to prove the damages by cogent evidence before the authority. In the case in hand, no evidence was produced before the Estate Officer to prove that in addition to the licence fee, the respondent is entitled for any amount of damages and if so on what rate. The witness who appeared on behalf of the respondent simply produced the copy of Shop Policy, 2014 and submitted a calculation before the Estate Officer claiming the damages, as per the provisions of Shop Policy. For the purpose of granting damages, the claimant is required to produce evidence in respect to the prevailing usages charges for the surrounding properties. No document was produced before the Estate Officer to



establish that similarly situated property in the vicinity is having a rental value more than amount agreed by the parties. It is also not brought on record that whether any of the occupants of the respondent is paying the rent as per the Shop Policy, 2014.

40. In the absence of any cogent evidence, only on the basis of provision of Policy, 2014 the Estate Officer erred in granting the damages in addition to the usages charges. No evidence was produced to assess the market rental value. The damages should be proved before the authority and until and unless the damages are not proved by the reliable evidence, no amount can be awarded under the head of damages. At the same time, it is also relevant to consider that against the last agreed rate of licence fee of Rs.3718/- per month the damages were awarded by the Estate Officer @ Rs.3,84,820/- per month. The rate of damages awarded is highly exorbitant and cannot be given seal of approval. In the garb of the powers, the Estate Officer had no authority to grant the damages more than 100 times and consequently the order for payment of damages is hereby set aside and the issue is answered accordingly.

### **CONCLUSION**

41. In view of the above, Misc. Petition No. 5575/2024 and Misc. Petition No. 6415/2024 are disposed of in the following terms:-
- (a) The order passed under section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for eviction of the petitioner from the subject premises is upheld.



- (b) The petitioner shall remove his temporary structure & articles within a period of one month from today and the respondent will permit the petitioner to remove the same.
- (c) The order for payment of arrears of licence fee is upheld and the petitioner shall be liable for payment of arrears of licence fee till 22.09.2024 on agreed rate adding the increment of 5% in the monthly license fee every year. however, the order for payment of damages as per the provisions of BHEL Shop Policy, 2014 is hereby set aside.
- (d) In case the petitioner fails to make payment of arrears of balance licence fee, the petitioner will not be entitled to remove the belongings from the subject premises and the respondent will have authority to recover the amount in accordance with law by auctioning the property left over by the petitioner in accordance with section 6 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.
- (e) No order as to costs.

**(SANJEEV SACHDEVA)**  
**CHIEF JUSTICE**

**(VINAY SARAF)**  
**JUDGE**

TG/-