

**Court No. - 2**

**Case :-** WRIT - C No. - 5726 of 2024

**Petitioner :-** Phool Vyapar Kalyan Samiti Lko. Thru. Its President Ram Lakhan And Another

**Respondent :-** Hussainabad And Allied Trust Lko. Thru. Its Chairman/D.M. And 4 Others

**Counsel for Petitioner :-** Ravi Singh

**Counsel for Respondent :-** C.S.C.

**Hon'ble Alok Mathur,J.**

**Hon'ble Arun Kumar Singh Deshwal,J.**

1. Vakalatnama filed by Shri Aditya Mohan, Advocate on behalf of respondent No. 1, 2, 4 and 5 is taken on record.

2. Heard Shri Ravi Singh, learned counsel for the petitioners, learned Standing Counsel for the respondent No.3 and learned counsel for the respondent No. 1, 2, 4 and 5.

3. By means of the present petition, the petitioners have challenged the notice dated 25.06.2024 by which the petitioner was directed to remove the possession from the area of 2000 square metre in Fool Bazaar, Hussainabad, Lucknow which was given on lease to the petitioners in the year 2001 on the ground that the lease/tenancy of the petitioners has been terminated on 07.11.2022 and despite giving sufficient opportunity, the petitioners have not evicted the property in question.

4. The contention of the learned counsel for the petitioners is that the petitioners have already deposited the premium of the lease/rent upto 30.10.2023 and without any notice they have been issued the impugned notice, which is virtually an order directing the petitioners to immediately remove the possession from the land in question.

5. Learned counsel for the opposite party No. 3, however, has submitted that the lease of the petitioners has been cancelled in the year 2022 and thereafter the notice dated 26.10.2023 was also issued to the petitioners to vacate the property in question. Thereafter, the petitioners filed a writ petition bearing Writ C No. 9853 of 2023 seeking mandamus against the respondent authorities to not to interfere in their possession but this petition was dismissed as withdrawn with liberty to approach the appropriate Court/forum/authority in accordance with law. From the perusal, it also appears that the petitioners, after

dismissal of the aforesaid writ petition, filed a civil suit bearing Suit No. 880 of 2023 seeking interim injunction restraining the respondents from interfering in the property in question. In the aforesaid civil suit, the application under Order 39 Rule 1 and 2 C.P.C. was also filed, which is still pending. Thereafter, the petitioners again approached this Court by preferring petition under Article 227 of the Constitution of India bearing Writ C No. 6027 of 2023 for directing the civil court to decide their application under Order 39 Rule 1 and 2 C.P.C., which was also disposed of vide order dated 30.01.2023 directing the court below to decide the interim injunction application of the petitioners within a period of six months. Thereafter, on receiving the impugned notice by which the petitioners are directed to remove their possession, the petitioner has filed the present writ petition.

6. This Court is of the view that in earlier occasion, the petitioners had approached this Court for restraining the respondent authorities, not to interfere in their possession over the property in question and that petition was dismissed as withdrawn with liberty to approach the appropriate Court/forum/authority in accordance with law. Thereafter, the petitioners had also filed a suit for injunction against the respondents regarding the same property, which is still pending.

7. In the light of such circumstances, this Court is of the view that notice dated 25.10.2023 is noting but a consequential order subsequent to cancellation of the allotment of the petitioners and the petitioners have remedy to challenge the cancellation of allotment order, which is not under challenge. Even otherwise, the petitioners have already filed a civil suit for seeking injunction, to which the application for temporary injunction is already pending. This Court does not find a fit case to exercise the extraordinary jurisdiction under Article 227 of the Constitution of India and the petitioners are permitted to pursue their suit as well as the application for interim injunction pending in the Suit No. 880 of 2023.

8. With the aforesaid, the writ petition is **dismissed**.

**(Arun Kumar Singh Deshwal, J.)      (Alok Mathur, J.)**

**Order Date :- 28.6.2024/Raj**