

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 427 of 2016

Dharamchand Jain S/o Kanwarlal Jain, Aged About 62 Years
R/o Industrial Ward, P.O. Dhamtari, District Dhamtari
Chhattisgarh

---- Petitioner

Versus

1. The Senior Superintending Engineer, South East Railway
Management Compound, W.R.S. Colony, Raipur, Chhattisgarh
2. The Estate Officer, South East Railway, Management
Compound, W.R.S. Colony, Raipur, Chhattisgarh
3. Union Of India, Through Chief Manager, South East Central
Railway, Garden Reach Kolkata, West Bangal,

---- Respondents

For Petitioner	:	Shri Ankit Singhal, Advocate.
For Respondent / SECR	:	Shri Abhishek Sinha, Advocate on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/02/2016

Heard.

1. The petitioner has filed this petition challenging the action of the respondent Railway authorities in proceeding to dispossess the petitioner. He submits that upon proceedings of eviction having been initiated by the Estate Officer under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and adverse orders passed, the petitioner has already availed remedy of statutory appeal before the Appellate Authority.
2. It is submitted that during the pendency of appeal, the petitioner is apprehending that the respondent may proceed to dispossess the petitioner.

3. Upon being enquired from the Court, learned counsel for the petitioner submits that prayer for stay of eviction order has been made before the Appellate Authority.

4. Learned counsel for the Railway submits that the petitioner having already approached the Appellate Authority and having filed appeal along with the prayer for stay application, this petition is not maintainable under the law as there exists an alternative remedy.

5. Learned counsel for the petitioner submits that till the matter is decided by the Appellate Authority, he may be protected against any dispossession.

6. I am afraid, such direction cannot be issued by the writ Court on the face of pendency of appeal proceedings particularly when the petitioner has already moved an application for stay. The proper course of action for the petitioner is to press his application for stay before the Appellate Authority.

7. The only observations which can be made is that on petitioner pressing his application for stay, the Appellate Authority shall decide the application for stay forthwith without further loss of time.

8. It is made clear that this Court has not commented upon the merits of the case.

9. With the aforesaid observations, this petition is dismissed as not maintainable.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E