

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1083 of 2017

Smt. V. Prabharao W/o Shri V. K. Rao, Aged About 52 Years Occupation Service, R/o Quarter No. 02/ A, Road No. 18, Sector- 6, Bhilai, Tah : & Dist : Durg (Chhattisgarh)

---- Petitioner

Versus

1. Steel Authority Of India Limited (Sail) Bhilai Steel Plant, Bhilai, Through Managing Director, Ispat Bhawan, Sector -3, Bhilai, Tahsil & District Durg (Chhattisgarh)
2. The General Manager (Administration), Bhilai Steel Plant, Bhilai Nagar, Administration Building Place, Civic Centre, Bhilai, Tah. & Dist. Durg Chhattisgarh
3. The Assistant Manager (Land & Patta), Bhilai Steel Plant, Bhilai Nagar, Administration Building Place, Civic Centre, Bhilai, Tah. & Dist. Durg Chhattisgarh
4. The Estate Officer, Bhilai Steel Plant, Public Premises (Eviction Of Unauthorized Occupants) Act, 1971, Maroda Sector, Bhilai Nagar, District Durg (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri J.K. Gupta, Advocate
For Respondents	:	Dr. S. K. Pandey, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

26/04/2017

Heard.

1. This petition under Article 226 of the Constitution of India has been filed against interim order dated 22.02.2017 passed by the Estate Officer in the matter of eviction proceedings against the petitioner under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as "*the Act of 1971*").
2. Learned counsel for the petitioner submits that the petitioner is not an unauthorized occupant because she was granted lease on 18.3.2002 for a

period of 30 years, which period is yet to expire. He submits that under an illegal order of determination of lease vide memo dated 3.2.2016, the respondents are treating the petitioner as unauthorized occupant and proceedings for eviction under the Act of 1971 have been initiated by the Estate Officer. He further submits that the petitioner filed a suit against the respondent- lessor seeking a declaration that determination of lease is void and inoperative. Therefore, unless the suit is decided, the petitioner cannot be treated as unauthorized occupant and no proceedings for eviction could be initiated. According to petitioner, specific objection to the maintainability of the eviction proceedings was raised by alleging that false allegation have been levelled against the petitioner. Therefore, in these circumstances, the objection was liable to be sustained and proceedings ought to be dropped.

3. Learned counsel for the respondents- lessor submits that the Estate Officer duly considered the objection of the petitioner and having found a prima facie case that lease has been determined on the ground that the petitioner has violated the terms and conditions of lease, found that it has jurisdiction to initiate proceedings at this stage. Therefore, the objection has been rightly overruled.
4. Merely because the petitioner has chosen to file a suit, the proceedings under the Act of 1971 could not be deferred or kept in abeyance much less without jurisdiction. The Estate Officer constituted under the Act of 1971 gets jurisdiction to initiate eviction proceedings in respect of an unauthorized occupant as defined under Section 2 (g) of the Act of 1971, which reads as follows:

“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.”

Vide notice dated 3.2.2016, the lease of the petitioner has been determined on the ground that the petitioner has violated the terms and conditions of lease. Taking into consideration the definition of “unauthorized occupant”, if there is determination of the authority to occupy, prima facie case

of an unauthorized occupant would be made out and the Estate Officer would get jurisdiction to initiate proceedings for eviction under the Act of 1971.

The other submission that since a suit has been filed, the petitioner should not be proceeded against, if I may say so, is fallacious in Law. The relevant statute i.e. the Act of 1971 does not contain any express provision that if a suit is filed assailing the order of determination of the authority to continue by way of lease, the Estate Authority shall stay its hands and await decision of the Civil Court. At this stage, I must refer to submission of learned counsel for the respondents that Section 15 of the Act of 1971 creates a bar to the jurisdiction of Civil Court to entertain any suit or proceedings in respect of eviction of any person who is unauthorized occupant of any public premise. This provision prima facie leads to conclusion that the suit may not be maintainable in such a case. Therefore, in any case, in the absence of there being any express provision which arrests jurisdiction of the Estate Officer, on mere filing of suit, it cannot be said that the proceedings of eviction under the Act of 1971 could not be initiated by the Estate Officer. It would ultimately be a matter of consideration by the Estate Officer whether the petitioner is liable to be evicted or not. I shall not touch upon this issue as the matter is pending before the Estate Officer. But certainly, the objection to the maintainability of proceedings does not hold water. I do not find any perversity or illegality in the decision of the Estate Officer in rejecting petitioner's objection to the maintainability.

5. The petition has no merit. The same deserves to be and is accordingly dismissed.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge