

**CO 1342 of 2020**

(Through Video Conference)

A. N. John Private Limited  
Vs.  
Life Insurance Corporation of India.

Mr. Manwendra Singh Yadav  
... For the petitioner.

Ms. Sanjukta Ray  
... For the opposite party.

The petitioner is the opposite party in a proceeding under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, pending before the Estate Officer of Life Insurance Corporation of India, being Case No.EO/474/1215. In the said proceedings before the learned Estate Officer, the petitioner filed an application dated 5<sup>th</sup> February, 2020, inter alia, challenging the jurisdiction of the Estate Officer and maintainability of the proceedings before him. 31<sup>st</sup> July, 2020 was not a date fixed for hearing either in physical form or virtual mode before the Estate Officer, yet the learned Estate Officer decided that the petition filed by the petitioner on 5<sup>th</sup> February, 2020 will be heard and disposed of along with the main eviction petition and passed an order to that effect on 31<sup>st</sup> July, 2020. The Estate Officer is deriving authority under the 1971 Act and is therefore require to comply with the principle of natural

justice. The learned Estate Officer is free to hold whether he wants a petition to be heard and disposed of with the main application or separately, before the main application. The 1971 Act grants him that authority. But the same to be done in presence of the parties after affording reasonable opportunity of hearing to the parties. It further appears that the Notification as to the appointment of the Estate Officer is under challenge in the said application filed before him on 5<sup>th</sup> February, 2020. It was therefore incumbent upon the learned Estate Officer to hear the application by affording opportunity to the parties to represent their case before the learned Estate Officer came to a conclusion that the said application should be decided along with the main eviction petition. Moreover, the challenge to the jurisdiction goes to the root of the matter and as such, it is well-settled that the jurisdictional issue has to be decided at the very outset so that unnecessary time is not spent till the matter is finally heard when the authority or a Court may come to a conclusion that it does not possess the jurisdiction. It also appears from the order dated 26<sup>th</sup> August, 2020 that the learned Estate Officer after deciding to hear and dispose of the application of the petitioner filed on 5<sup>th</sup> February, 2020 along with the main eviction petition on 31<sup>st</sup> July, 2020, has recorded that 26<sup>th</sup>

August, 2020 was fixed for conclusion of hearing and oral argument on the application filed by the petitioner on 5<sup>th</sup> February, 2020 in the eviction proceedings before the learned Estate Officer.

On a conjoint reading of the two orders it appears that the learned Estate Officer is not clear in his views as to what he intends to do with the petitioner's application dated 5<sup>th</sup> February, 2020. The order dated 31<sup>st</sup> July, 2020 and also the subsequent order dated 26<sup>th</sup> August, 2020 so far as it relates to hearing of the petitioner's application made on 5<sup>th</sup> February, 2020, is, therefore, not sustainable and are set aside.

The learned Estate Officer is directed to hear out the application dated 5<sup>th</sup> February, 2020, filed by the petitioner, being the opposite party in the main eviction proceedings, as expeditiously as possible and before disposal of the main eviction proceedings upon granting reasonable opportunity to the parties to represent themselves. The learned Estate Officer shall fix a date or two dates within a short span and inform the parties of the same for the purpose of hearing of the petitioner's application dated 5<sup>th</sup> February, 2020 pending before him. The learned Estate Officer shall also be at liberty to conduct virtual hearing, if physical hearing is not permissible. The application dated 5<sup>th</sup> February, 2020

shall be disposed of on or before 31<sup>st</sup> December, 2020 without granting any unnecessary adjournment.

The revisional application, being CO 1342 of 2020 stands disposed of accordingly.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon usual undertakings.

**(Arindam Mukherjee, J.)**