

MAT 1005 of 2021
With
CAN 1 of 2021
Satyendra Singh
Vs.
The Union of India & Ors.
(Through Video Conference)

Mr. Ranjan Kali
Mr. Suraj Bhattacharjee
... .. for the appellant
Ms. Aparna Banerjee
Ms. Sarda Sha
... .. for the respondent nos. 1 to 4

This appeal is directed against the order of the learned Single Judge dated 09.09.2021 whereby WPA 13718 of 2021 was dismissed by holding that there was no infirmity in the order dated 14.08.2021 which was passed under section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

The appellant had raised the grievance before this Court that the order dated 14th August, 2021 was passed by the Estate Officer without giving proper opportunity of hearing and during the course of argument also learned counsel for the appellant has submitted that the order dated 14th August, 2021 is cryptic order.

Having regard to the grievance raised in appeal, this Court on 29.09.2021 had directed as under :

“Having heard the rival submissions and considering the materials placed, at this stage, this Court is satisfied that the ends of justice would be served in the event the Respondent No. 4/the Estate Officer, is directed to grant an opportunity of hearing to the appellant upon prior notice.

In the event the appellant fails to attend such hearing, either himself or

though his authorized representative, the Estate Officer/the Respondent No. 4 shall be free to pass a reasoned order.

The reasoned order of the Estate Officer/the respondent no. 4 shall be placed before this Court on the next date through learned Counsel.”

The above order duly takes care of the grievance of the appellant that the initial order dated 14th August, 2021 was passed without complying with the principles of natural justice. The respondents have disclosed in their affidavit dated 22nd November, 2021 that on the basis of the direction issued by this Court on 29th September, 2021 the Estate Officer had served a notice upon the appellant requesting him to appear for personal hearing on 9th October, 2021 and on that date the hearing took place in the office of the Estate Officer. The appellant had appeared on 9th October, 2021 along with his advocate and after due opportunity of hearing the reasoned order has been passed by the Estate Officer on 21st October, 2021.

In view of the subsequent reasoned order, the grievance of the appellant that the initial order dated 14th August, 2021 was a cryptic order also does not survive.

Against the order of eviction passed under section 5 of the Act of 1971 there is a remedy of appeal under section 9 of the Act and the appellate authority also has power to pass an order of stay under section 9(3) of the Act.

Since an alternative efficacious remedy of appeal is available, therefore no case is made out to enter into the merits of the eviction order by this Court at this stage.

Hence, we dispose of this appeal permitting the appellant to avail the remedy of appeal.

In order to give breathing time to the appellant, we direct that the interim order passed in this appeal will continue for a period of one week from today.

We make it clear that the appellate authority will decide the issue and application for stay independently without being influenced by the breathing time given by this Court.

The appeal being MAT 1005 of 2021 along with CAN 1 of 2021 are accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)