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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 11.01.2021

+ W.P.(C) 296/2021

HARI RAM

..... Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Dinesh Sharma, Advocate.

For the Respondent: Mr. Nirvikar Verma, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner seeks quashing of order dated 17.10.2020 passed by the District Judge dismissing the appeal filed by the petitioner under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 on the ground of limitation.
3. Learned counsel for the petitioner contends that the proceedings were taken up through video conferencing on account of COVID-19 lockdown and no notice was received by the petitioner and they were not heard at the time when the impugned order was passed.

4. Learned counsel submits that the advocate for the petitioner who had filed the appeal had expired on 17.04.2020 and no notice had been received of the hearing of the appeal.

5. Learned counsel points out to the impugned order dated 17.10.2020 which also records that none had appeared for the appellant and the Court had passed the order merely on the basis of written arguments which were filed in August, 2019.

6. Issue notice. Notice is accepted by learned counsel appearing for the respondents. With the consent of parties, the petition is taken up for final disposal today.

7. Petitioner has contended that at the time when the appeal was taken up for disposal none was present on behalf of the petitioner. He has also placed on record documents to show that the advocate for the petitioner who had filed the appeal i.e. Mr. Shiv Prasad Verma had already expired.

8. Since *ex facie* the petitioner was not heard at the time when the impugned order dated 17.10.2020 was passed and even the advocate who had filed the appeal had expired, the order dated 17.10.2020 is not sustainable solely on that count.

9. In view of the above, order dated 17.10.2020 is set aside. The matter is remitted to the Court of the District Judge for a fresh hearing on the appeal.

10. It is clarified that this Court has neither considered nor commented upon the merits of the order and the order has been set aside solely on the ground that petitioner was not heard at the time when the order was passed.

11. List the appeal before the District Judge on 27.01.2021.

12. The petition is disposed of in the above terms.

13. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

JANUARY 11, 2021

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