

22nd March,
2022
(AK)
05

W.P.A 4727 of 2022

Sri Chintu Paramanik and another
Vs.
Union of India and others

Mr. Tanmay Basu
Md. Aasif Iqbal

...for the petitioners.

Mr. Tapan Kr. Mukherjee
Mr. Rajat Dutta

...for the State.

Mr. Hemonta Coomer Mitter

...for the respondent no.1.

Mr. Apurba Kr. Dutta

...for the respondent no.7.

Learned counsel for the petitioners submits that the petitioners have been served with a notice under Section 4 of The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and, thereafter, allegedly without hearing the petitioners and/or giving the petitioners any opportunity of hearing, the Estate Officer passed an *ex parte* order of eviction under Section 5 of the 1971 Act.

Learned counsel further submits that in view of the patent violation of natural justice, this court ought to interfere under Article 226 of the Constitution of India, despite the availability of an alternative remedy in the form of an appeal under Section 9 of the 1971 Act.

Learned counsel appearing for the respondents argue that the contentions of the petitioners are incorrect.

It is further contended that it will be evident from the annexures to the writ petition itself that the petitioners were given several opportunities of hearing, which were, however, skipped by the petitioners.

As such, it is contended that there has arisen no occasion to allege violation of any principle of natural justice.

Be that as it may, any observation on the merits of the case might affect the outcome of the appeal, if any, ultimately preferred by the petitioners.

In view of availability of an equally efficacious alternative remedy in the form of an appeal under Section 9 of the 1971 Act, I am not inclined to entertain the writ petition on merits.

However, needless to say, the period lost by the petitioners in pursuing the present writ petition shall not be counted to fall within the period of limitation for the purpose of filing an appeal under Section 9 of the 1971 Act.

WPA 4727 of 2022 is, thus, disposed of with the above observations, granting liberty to the petitioners to approach the appellate forum with an appeal under Section 9 of The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against the order of eviction passed against the petitioners.

If such an appeal is preferred, the appellate forum shall decide the same in accordance with law, upon hearing all necessary parties, subject to the law of limitation otherwise.

Since no affidavits have been invited, it is deemed that all the allegations made in the writ petition are denied by the respondents.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)