



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.48 OF 2024

(Abdul Mujeeb Abdul Jabbar and another Vs. Union of India, thr. Secretary, Ministry of Defence, New Delhi and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. R. K. Thakkar, Advocate for Petitioners.
Mr. C. J. Dhumne, Advocate for Respondent Nos.1 & 2.
Mr. Abhijit Mate, AGP for Respondent No.3/State.

CORAM: N. R. BORKAR, J.

DATE: 29th NOVEMBER, 2024.

This petition takes exception to the order dated 08.12.2023 passed by respondent no.2 – the Estate Officer, Defense Estate, under Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

2. The learned counsel for respondent no.2 submits that the order impugned is appealable, and therefore, present petition may not be entertained.

3. On the other hand the learned counsel for the petitioners submits that respondent no.2 has passed the order impugned in utter violation of principles of natural justice, and in such circumstances remedy of the appeal is no bar to entertain the petition.

4. In support of submissions the learned counsel for the petitioners has relied upon the decision of Hon'ble Supreme Court in *M/s Magadh Sugar & Energy Ltd. v. The*

State of Bihar & Ors. in Civil Appeal No.5728/2021 dated 24.09.2021 and of this Court in Namdeo Apparao Chate and others v. The State of Maharashtra and others in Writ Petition No.6598/2023 dated 26.07.2023.

5. I have perused the impugned order. One of the findings in the impugned order reads thus:

(a) The respondents have misused the orders passed by the Hon'ble High Court of Bombay Nagpur Bench in respect of WP No.7501/2022. As per the Hon'ble Court order, the Court of Estate Officer is conducting the hearing at the District Collector Office, Washim for convenience of the respondent. Several opportunities have been granted but the respondent is taking repeated adjournments without proper reason.

6. In view of the above finding, I am, not inclined to entertain the present petition. The petition is dismissed. It would be open to the petitioners to file appeal against the impugned order.

7. On the request of the learned counsel for the petitioners to enable the petitioners to challenge this order before the Hon'ble Supreme Court, the interim order passed by this Court shall remain in operation for the period of six weeks from today.

(N. R. BORKAR, J.)