
(2018) 05 CAL CK 0230
In the Calcutta High Court
Case No : Writ Petition5092 (W) of 2018

Ural India Limited & Anr

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 17-05-2018

Acts Referred:

West Bengal Public Land (Eviction and Unauthorised Occupants) Act, 1962 — Section 4
Constitution Of India, 1950 — Article 226

Citation : (2018) 05 CAL CK 0230

Hon'ble Judges : HARISH TANDON, J

Bench : Single Bench

Advocate : Shaktinath Mukherjee, Arindam Banerjee, Suddhasatya Banerjee, Debayan Sen, B. Kumar, Saptangshu Basu, Chayan Gupta, Amit Kumar Nag, Swarajit Dey

Final Decision : Dismissed

Judgement

The challenge is made to an order dated 18th April 2018 passed by Sub Divisional Magistrate, Haldia under Section 4 of the West Bengal Public Land

(Eviction and Unauthorised Occupants) Act 1962. It is submitted by Mr. Shaktinath Mukherjee, learned senior counsel appearing for the petitioners

that the order impugned cannot be legally sustained having passed in gross violation of principles of natural justice.

According to him there is no fetter on the part of the Court to entertain the writ petition despite existence of alternative remedy if the order per se

violates the principles of natural justice. It is pointed out by him that a reply to the statement given by his client was filed on the date when the

impugned order was passed without serving a copy thereof and, therefore, the order cannot be sustained.

Mr. Saptangshu Basu, learned senior counsel appearing for the respondents

submits that the said document has no relevance to the core issue involved in the said proceedings and the authorities never proceeded on the basis thereof and, therefore, no prejudice is caused to the petitioner. In other words, Mr. Bose submits that mere non adherence of principles of natural justice cannot be a ground for invocation of the provisions contained under Article 226 of the Constitution of India unless a prejudice is shown by the petitioner.

Apparently a document is filed on the date of the impugned order and it is not in dispute that the copy thereof was not served upon the petitioner.

There is obviously a reflection of the statement contained in the said document which according to Mr. Bose is not correct as the authorities have recorded the same on the basis of an oral submission made by the parties as well as the stand taken in the written statement filed at an earlier point of time.

Apart from the same, this Court finds the challenge is also rested upon the fact that there was infact no hearing held on the said date rather the matter was adjourned to some other day which itself is a ground to set aside the said order. The aforesaid contention is seriously disputed by the contesting respondents as according to him the arguments were advanced which would be evident from the events happened before the said authority and recorded in the impugned order.

Since both the parties are not ad idem on above issues, this Court feels that it would be proper to consider the writ petition upon exchange of affidavits. Furthermore, this Court finds that a serious allegation as observed hereinabove is leveled against the respondent authorities in relation to a conduct in the proceedings of the statutory authority and serious consequence shall follow in absence of any protection.

This Court restrains the respondents from taking any step or further steps or proceedings further on the basis of the impugned order till the end of July 2018 or until further order whichever is earlier. Let affidavit-in-opposition be filed by the respondents within two weeks after reopening of this Court following summer vacation. Reply thereto, if any, shall be filed within a week therefrom. The writ petition shall appear three weeks after reopening of this Court following summer vacation as â??For Ordersâ?? in the supplementary list.