

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>WPMS No. 2076 of 2023</p> <p><u>Hon'ble Pankaj Purohit, J.</u></p> <p>Dr. Kartikey Hari Gupta, learned counsel alongwith Mr. Rafat Munir Ali and Mr. Irum Zeba, learned counsels for the petitioners.</p> <p>2. Mr. T.S. Bisht, learned D.A.G. for the State of Uttarakhand/respondent nos.1 to 6.</p> <p>3. Mr. Atul Bhatt, learned counsel for respondent no.8/Union of India.</p> <p>4. Heard learned counsels for the parties.</p> <p>5. By means of this writ petition, the petitioners have challenged the impugned eviction/demolition order dated 19.07.2023 (Annexure No.1 to the writ petition) issued by respondent no.3, whereby, the eviction/demolition of the accommodation held by the petitioners, by their virtue of being the ex-employee of I.D.P.L./respondent no.7, was directed to be carried out.</p> <p>6. It is the submission of the learned counsel for the petitioners that the petitioners have been in occupation of the accommodation provided to them by I.D.P.L./respondent no.7 on different dates, on there being the employee of I.D.P.L./respondent no.7.</p> <p>7. Since, I.D.P.L. has become inoperative, therefore, the Central Government on the decision of the Union Cabinet closed down I.D.P.L. and a decision was taken by the Government to give back whole of the lease land i.e. 899.53 Acres of Rishikesh Plant of I.D.P.L., which was leased out to it, by the State of Uttarakhand (by erstwhile State of U.P.) to the Government of Uttarakhand. It is also submitted that the</p>

lease with I.D.P.L. has come to an end on 27.11.2021.

8. Learned counsel for the petitioners strenuously argued that even if the lease of I.D.P.L. with the State of Uttarakhand has come to an end on 27.11.2021, still, the occupation of the petitioners on the accommodations-in-question, which was allotted to them by I.D.P.L., can only be termed as unauthorized occupation.

9. He drew the attention of this Court to the fact that in order to meet out such eventuality the legislature has enacted U.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter to be referred to as 'the Act') and according to the provisions of the Act, a detailed procedure has been prescribed to tackle with unauthorized occupants and their eviction.

10. In view of the enactment of the Act, the petitioners cannot be evicted in the manner the respondent-State is going to evict them from the accommodation-in-question by issuance of the impugned order.

11. Per contra, learned D.A.G. when pointed a query, as to whether before passing the impugned order dated 19.07.2023 any notice has been issued to the petitioners by the State Government, learned D.A.G. expressed his inability to say anything about this, as to whether any proceedings has been launched under the provisions of the Act.

12. Having heard learned counsel for the parties, this Court finds that may be the occupation of the petitioners on the accommodations-in-question is illegal/unauthorized after cancellation of the allotment by I.D.P.L. after expiry of lease deed with the state of Uttarakhand, the occupation can only be said to be unauthorized occupation of the

accommodations-in-question, the rule of law should prevail and no one is above the law to direct the eviction and demolition of the accommodation, without due process of law. From the record of the writ petition, it appears that notices were sent to the petitioners by Estate Officer, I.D.P.L. Rishikesh on 05.04.2022 and 07.05.2022 (Annexure no.3 to writ petition) Form "B" purportedly under Section 5(1) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (Central Act). But, once the petitioners did not hand over vacant possessions to I.D.P.L. after expiry of the lease, they are no longer the occupants of I.D.P.L. The State Government should have initiate eviction proceeding under the Act. Since, petitioners came in possession of the accommodations-in-question after allotment made to them by I.D.P.L., they cannot be termed as rank trespassers.

13. In this view of the matter, the impugned order dated 19.07.2023 is hereby stayed till next date of listing, qua the petitioners.

14. Four weeks' time is granted to State to file counter affidavit. Two weeks thereafter is granted for filing rejoinder affidavit.

15. List on 19.09.2023.

16. Let a certified copy of this order be supplied to learned counsel for the parties, during the course of the day, as per Rules.

(Pankaj Purohit, J.)
26.07.2023

PN/-