

WP(C) 7908/2016
BEFORE
HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI

Heard Mr. P.J. Saikia, learned counsel for the petitioners. Also heard Mr. B. Gogoi, learned standing counsel, Health and Family Welfare Department appearing for the respondents.

This writ petition is directed against the notice dated 9.12.2016 (Annexure-S) issued by respondent No. 7 under Section 4(1) of the Assam Public Premises (Eviction of Unauthorized Occupants) Act, 1971, for short, 1971 Act, requiring the petitioners to show cause on or before 23.12.2016 why an order of eviction should not be made in Eviction case No. 1/2016.

The petitioner No. 1 is a Pharmacy, represented by its proprietor, who is the petitioner No. 2. Petitioner No. 2 is running the pharmacy which is situated near the College canteen of the Assam Medical College and Hospital, Dibrugarh. The petitioners had shown cause by show-cause reply dated 20.12.2016 to the notice dated 9.12.2016.

It appears that the petitioners had earlier approached this Court by filing writ petition which was registered as WP(C) No. 6962/2016. The writ petition was allowed by setting aside the order/notice dated 5.10.2016 on the ground that the order of this Court dated 22.12.2016 passed in an earlier writ petition being WP(C) No. 753/2009 was violated by the respondent authorities. However, liberty was granted to the respondents to initiate further action in the matter in accordance with law.

Mr. Saikia has submitted that prior to issuance of the notice dated 9.12.2016, another notice was issued on 30.11.2016 directing the petitioners to vacate the area in which the petitioner No. 2 is running his establishment. No further action was taken on the basis of the notice dated 30.11.2016 and thereafter, notice under Section 4(1) was issued on 9.12.2016. Mr. Saikia submits that it appears to the petitioners that the authorities have a pre-conceived mind to evict the petitioners.

Mr. Gogoi submits that the writ petition is premature as the show cause reply submitted by the petitioners is yet to be considered. It is also submitted that the apprehension expressed by the petitioners is misconceived. It is also contended by him that authorities will act in accordance with law and follow the mandate of Section 5 of the 1971 Act which provides for opportunity of hearing before any order of eviction is passed.

Having heard the learned counsel for the parties, I am of the considered opinion that the writ petition is premature and it will not be correct to entertain this writ petition at this stage.

In view of the above, this writ petition is not entertained and is disposed of by observing that the respondents will act in accordance with law and that the grounds urged by the petitioners in the show cause reply shall be given due consideration.

No cost.