

C.O. 2180 of 2026

Bharat Petroleum Corporation Ltd.

-versus-

Syama Prasad Mukherjee Port, Kolkata & Ors.

Mr. Jaydip Kar, Sr. Advocate

Mr. Sanjib Kumar Mal

Ms. Shomrita Das

Mr. Shomrik Das

..for the petitioner

Mr. Subhankar Nag

Ms. Antalina Guha

Ms. Harshita Purohit

..for the opposite party

The orders dated June 16, 2026, June 24, 2026 and June 25, 2026 all passed by the Estate Officer, Syama Prasad Mookerjee Port, Kolkata in Proceeding No. 2238 of 2026 is under challenge in the civil revisional application at the instance of Bharat Petroleum Corporation Limited.

By the order dated 25th June, 2026 the Estate Officer directed the department to draw final order of eviction under Section 5 of the Act as per the rules.

Mr. Kar, learned senior advocate appearing for the petitioner submits that the petitioner is in occupation of piece and parcel of public premises under Plate Nos. HL-213/1 and HL-213/2 on Foreshore Road, Shibpur, Howrah and is running the business of petrol pump through its dealer being the proforma opposite party no.3. He submits that the notice under Section 4 of the Public

Premises Eviction of Unauthorised Occupants Act, 1971 dated 16th June, 2026 was issued directing the petitioner to show cause on or before 24th June, 2026. He submits that on 24th June, 2026 the petitioner entered appearance before the Estate Officer and filed the petition praying for supply of certain documents which were referred to in the notice under Section 4 of the 1971 Act. He submit that the Estate Officer only granted a day's time to file the reply to the show cause notice and fixed the date of hearing on 25th June, 2026 and passed the final order under Section 5 (1) of the 1971 Act.

Mr. Kar, learned senior advocate appearing for the petitioner submits that non-supply of the copy of the application referred to in the notice under Section 4 of the 1971 Act as well as not granting adequate opportunity to submit a reply to the show cause notice amounts to gross violation of the principles of natural justice. He further submits that the provisions laid down under the 1971 Act and procedures under the rules framed thereunder has not been followed by the Estate Officer while passing the order under Section 5(1) of the 1971 Act.

Mr. Nag, learned advocate appears for the opposite party. He seriously disputes the submission of Mr. Kar, learned senior advocate for the petitioner. He further submits that the proforma opposite party no.3 has filed an initial reply and sought for further time to file an exhaustive reply. He submits that the petitioner in spite of

being afforded an opportunity to submit a reply to the show cause did not submit any reply within the time limit fixed by the Estate Officer. He also raises an objection as to the maintainability of the instant civil revisional application in view of the appellate remedy provided under the 1971 Act. He further submits that the proforma opposite party no.3 has already preferred a miscellaneous appeal and has obtained an order of stay of the order dated 25th June, 2026.

In reply Mr. Kar, learned senior advocate for the petitioner submits that he is not aware of any proceeding initiated by the proforma opposite party no.3. He further submits that the petitioner has an independent right to assail the order dated 25th June, 2026.

Heard the learned advocates for the parties and perused the materials placed.

This Court is conscious of the provision under Section 9 of the Public Premises Eviction of Unauthorised Occupants Act, 1971 providing a remedy by way of an appeal against an order of the Estate Officer in respect of a public premises passed under Section 5 of the 1971 Act. It is well settled that mere availability of an alternative statutory appellate remedy cannot act as a bar to the exercise of jurisdiction by the High Court under Article 227 of the Constitution of India under certain exceptional circumstances and one of such exception is that the principles of natural justice has been grossly violated.

From the materials disclosed in the civil revisional application it appears that the notice under Section 4 is dated 16th June, 2026 fixing 24th June, 2026 at 3 p.m. for filing reply to the show cause before the Estate Officer. The said notice specifically states that an application from SMPK dated 15th June, 2026 is attached hereto which also forms part of the grounds.

Mr. Kar, learned senior advocate for the petitioner would vehemently contend that the copy of such application was not served upon the petitioner and for such purpose an application was also filed praying for a direction to supply the copy of such application.

Mr. Nag, learned advocate representing the SMPK would submit that SMPK is not obliged to supply the copy of the said application.

This Court refrains from entering into such a dispute at this stage.

However this Court finds that the petitioner entered appearance before the Estate Officer on 24th June, 2026 and sought for time to file reply. It appears from the order dated 24th June, 2026 that only a day's time was afforded to the petitioner to submit the reply to the show cause. To the mind of this Court only 24 hours time for submission of a reply to the show cause is not sufficient. An opportunity to defend is not a mere formality but should be effective as well.

Upon going through the materials disclosed in this civil revisional application this Court is of the prima facie view that an effective opportunity was not afforded to the petitioner to defend itself in the proceeding under the 1971 Act before the Estate Officer.

For such reason, this Court is inclined to pass an interim order.

There shall be an order of stay of operation of the order dated 25th June, 2026 passed by the Estate Officer in Proceeding No. 2238 of 2026 till the end of the month of August, 2026 or until further orders whichever is earlier.

List this matter on 10th August, 2026.

(Hiranmay Bhattacharyya, J.)