

(1999) 08 DEL CK 0051

In the Delhi High Court

Case No : C.M. (Main) Petition No. 276/97

Avis Fatimat and Others

APPELLANT

Vs

Pushpa Devi and Another

RESPONDENT

Date of Decision : 06-08-1999

Acts Referred:

Citation : (1999) 5 AD 604 : (1999) 81 DLT 205 : (1999) 50 DRJ 845 : (1999) RLR 481

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Mr. Mohd. Adid, for the Appellant;

Judgement

Vijender Jain, J.—Counsel for the petitioner has contended that the order u/s 15(4) was passed on 9.3.1994 when nobody was present on behalf of the petitioner or on behalf of the respondent. Counsel for the petitioner has vehemently contended that as a matter of fact he was not aware whether any order u/s 15(4) was passed on 9.3.1994. therefore , the learned counsel for the petitioner has contended that the final order subsequently passed by the Addl. Rent Controller dated 6.8.1996 be quashed. In support of his contentions, counsel for the petitioner has cited Nirankar Nath Wahi & Others Vs. Fifth Addl. District Judge, Moradabad and others and Jagmohan Lal Vs. Tara Chand Verma 1982 (2) RLR 108. Another contention raised by the counsel for the petitioner is that no prejudice has been caused to the respondent as she was entitled to take the rent only after the decision of the matter when the matter was finally decided on 6.8.1996.

2. I have given my careful consideration to the arguments advanced by learned counsel for the petitioner. None of the authorities cited by the counsel for petitioner helps the petitioner in view of peculiar facts of this case. Let us examine the submission of the counsel in the light of fact that the eviction petition was filed in the year 1998. Dates were given, parties were present from 1988 till 9.3.1994 on which date nobody appeared on behalf of the respondent.

Was the Addl. Rent Controller, not justified in passing the order when nobody was present on behalf of the respondent? Pleadings of the parties were before the Addl. Rent Controller and no litigant can adopt tactics by not appearing in the court and subsequently take the plea that when he was not present, no order could have been passed. If that is allowed to be done, the proceedings in a Court cannot come to an end. In this particular case after 9.3.1994 when the order u/s 15(4) was passed, the matter was listed for recording the evidence of the parties on 13.9.1994. From 13.9.1994 till 6.8.1996 when the judgment was delivered according to the learned counsel for the petitioner himself, the matter was adjourned on different dates, then parties led their evidence. At no stage, according to him, this order came to his knowledge. This submission has no force. Once a matter is pending in the Court any order passed in that proceedings when parties are attending on subsequent proceeding, to say that a particular order of a particular date has not come to his knowledge is devoid of any merit. The petitioner was very much aware of the order passed on 9.3.1994. He has taken part in the proceedings, led evidence, took his change got an adverse order, that order was again appealed before the Rent Control Tribunal and now before this Court.

3. In view of the facts and circumstances of this case no interference is called for.
4. I do not find any merit in the petition.
5. Dismissed.