
(1971) 10 DEL CK 0025

In the Delhi High Court

Case No : Civil Writ Appeal No. 715 of 1968

Ballabh Dass Agarwal

APPELLANT

Vs

Lt. Governor of Delhi and Another

RESPONDENT

Date of Decision : 29-10-1971

Acts Referred:

Citation : (1972) ILR Delhi 506

Hon'ble Judges : S.I. Rangarajan, J;Rajinder Sachar, J

Bench : Division Bench

Advocate : Y.K. Sabharwal, H.L. Sabarwal, B.B. Kishore and J.P. Gupta, for the Appellant;

Judgement

S. Rangarajan, J.

(1) The petitioner is the owner of property bearing No. 4, Tolstoy Marg, New Delhi. The main building was leased to the Ford Foundation in July, 1960, the petitioner keeping the rear annexe himself. The Ford Foundation initially took the premises on lease for 5 years with an option of renewal which was also exercised by them. Having learnt that the Ford Foundation would be vacating the property by the end of June, 1968, Shri Radha Ballabh Aggarwal, the general attorney of the petitioner (Shri Ballabh Dass Aggarwal) was looking out for a suitable tenant. It was proposed that the main building could be rented out to the India Tourism Development Corporation Limited, a Government of India Undertaking. A letter dated 15-6-1968 was written by the general attorney to the Corporation in this connection demanding a rent of Rs. 22,000.00 p.m. In reply the Corporation offered Rs. 20,000.00 p.m. By a further letter dt. 5th July, 1968 the general attorney expressed his consent to let-out the main building at Rs. 20,000.00 p.m. subject to a lease-deed being executed incorporating the conditions agreed upon. The Ford Foundation, however, did not vacate the premises by the 30th of June, 1968 as originally agreed, there having been some delay in the matter of moving to the new premises. The Ford Foundation, Therefore, informed the petitioner that they would be vacating the premises on the 16th of August, 1968.

The general attorney, who was then at Bombay, had come to Delhi for the purpose of executing a lease agreement with the India Tourism Development Corporation. The necessary stamp paper was purchased on the 18th July, 1968. A formal agreement of lease was executed on 20th July, 1968.

(2) According to the Collector, Delhi (R2), he had issued a notice u/s 2(1) of the Requisitioning and Acquisition of Immovable Property Act (30 of 1952), on 12-7-1968, informing the petitioner that the property was needed for a public purpose, namely, accommodating government Officers/Offices, for the purpose of Union, and that the petitioner may show cause within 15 days of the services of the notice why the property should not be so requisitioned. The owner was also informed that he should not dispose of or structurally alter the property or even let it to a tenant until the expiry of two months of the said notice.

(3) This notice was served by affixture and the signature, in pencil, of a person residing in the back portion of the property, was obtained by the process server who affixed the said notice on the main building on 12-7-1968.

(4) According to the return filed in this case, since no objections about such proceedings until 5-8-1968 when Shri K. N. Joshi, Magistrate 1st Class, Delhi, who was also the Requisitioning Officer, visited the property and met the petitioner's general attorney. It was then for the first time, according to the petitioner, that his general attorney was informed that notice asking for cause to be shown against the requisitioning of the building had been issued. On his informing Shri Joshi that the petitioner had neither any information nor received any such notice, a copy of the notice was delivered to him personally by Shri Joshi. A photo stat copy of the same was also furnished at the hearing, even though August, 1968 was noted on top (no date being mentioned); Shri Joshi had himself initialled it on 12-7-68.

(5) The petitioner has alleged that on 7th August, 1968 his general attorney received a telephonic call from Shri Joshi for attending his court; when he went there he presented an application to Shri Joshi by addressing it to the Collector, stating therein that he had no knowledge of any notice issued prior to 5th August, 1968 and that time may be granted to him for seeking instructions from the petitioner. A copy of the application which is thus given is Annexure "G" to the Writ Petition.

(6) According to the return filed in this case, since no objections were received up to 25th July, 1968, the Officer In charge (Requisition) personally visited the property in question to ascertain some other facts. During the course of his visit a person, introduced himself as an attorney of the petitioner, he was informed about the requisitioning of the building and a copy of the notice which had already been affixed on the building on 12-7-1968 was handed over to the general attorney.

(7) Later, on 7-8-68 itself some representatives of the Tourism Development Corporation were present in the Court of Shri Joshi in connection with discussions

regarding another building which was allotted to them by the Collector. They disclosed that the owner of No. 4, Tolstoy Marg, had offered his building to the Corporation. Shri Joshi informed them about the notice issued for requisitioning of the building and that it would be an offence if any arrangement of lease concerning the property was entered into.

(8) Shri Joshi also informed the general attorney who was also present not to go on with any negotiations to let-out the building. The attorney wanted a copy of the requisition order. As the file was with the Collector, Shri Joshi obtained it from him and informed the general attorney that final orders had already been passed requisitioning the premises.

(9) The general attorney had submitted an application but it was returned to him because the Collector had already passed the order requisitioning the building.

(10) The attorney then submitted an application for inspection. He was asked to state which documents he wanted to inspect and was given inspection of such papers as he had specified in the application. It is obvious that if the attorney had not taken back the application for time, some orders must have been passed thereon; the attorney would have asked for inspection of the order passed on the said application also.

(11) The first question for consideration is whether section 15(1) has been complied with. It reads as follows :-

"SERVICE of notice and orders. (1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall;- (a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette; and (b) in the case of any notice or order affecting an individual, corporation or firm be served in the manner provided for the service of summons in Rule 2 of Order Xxix or Rule 3 of Order Xxx, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; and (c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person- (i) by delivering or tendering it to that person; or (ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer or such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means, (iii) by post."

(12) The admission in paragraph 2 of the Writ Petition is as follows :-

"THE back side (sic) annexe portion of the premises was and is with the petitioner himself."

(13) No other address of the petitioner is stated to have been available with the Collector. In these circumstances the resort to the procedure prescribed by section 15(1)(c)(ii) was legitimate.

(14) The file itself was produced at the hearing and it is seen from the said file that the signature of a person, in pencil was taken by the person who affixed the notice on the premises. It is stated in the return that this person was a servant of the petitioner who was in the annexe retained by him for his own use. It is also seen from the file that the notice was pasted on the premises on 12-7-68. This finds support from the letter of the representative of the Ford Foundation, who had admitted the factum of pasting of the notice on the main entrance gate of the premises proposed to be requisitioned by the Collector. In spite of the notice having been affixed no objections have been filed within 15 days thereof.

(15) An appeal was filed by the petitioner to the Lt. Governor, who dismissed the same on 7-9-1968 after satisfying himself that the notice dated 12-7-1968 was affixed to the property in the manner required by section 15. It has not been shown to us that there has been any failure to comply with section 15 of the Act.

(16) It was next urged that the purpose for which the property was requisitioned was not a purpose of the Union of India and that u/s 3 of the Act the property could not be requisitioned for any public purpose which is not a purpose of Union. No such point has been specifically taken, the Writ Petition. All that was stated in ground 9 was that no public purpose was specified in the notice and that the so-called purpose stated was vague and indefinite. It was further stated in the rejoinder that no public purpose had been mentioned since there was none.

(17) In the absence of such a specific allegation the petitioner cannot seek to derive any assistance from the decision in *Seth Munna Lal v. Union of India* and other (1970) *Delhi Law Times*, page 47(1).

(18) What was held therein was that the accommodation of an office or an officer of the State Government could not per se be a purpose of the Union. This decision was referred to by another Division bench of this Court in *Shri Sarup Singh v. Union of India and others*, (Civil Writ No. 459 of 1967) decided on 12-7-70(2). The question that fell for consideration in that case was whether the requisition for the purpose of a School to be run by the Municipal Corporation, out of its own funds, was a public purpose. The answer was given in the affirmative : the argument that the purpose of Maintaining or running a Municipal School was not a purpose of Union was rejected. Another decision by a Division bench of this Court in *H. L. Rodhey and others v. Delhi Administration and others*, AIR 1969, Delhi 247, discussing the special status of the Union territory in the light of the Constitution and the Government of Union Territories Act, 1963, was referred to. *Seth Munna Lal's*(1) case could be understood as laying down the proposition that a purpose with which the Union was not concerned would not support a requisitioning order. *Hardyal Hardy, J.*, (as his Lordship then was) speaking for the Division bench in *Sarup Singh's*(2) case observed as follows:-

"THE purpose of the Union may be co-extensive with its executive or legislative functions. It may also extend to matters with which the Union is either

administratively or financially concerned. It cannot, however, be extended, for instance, to a purpose with which only a private body or individual or a State as distinct from the Union may be concerned-The Union of India is also administratively in control of its (Municipal Corporation) affairs."

(19) It is worth recalling that in the notice dated 12-7-68 the property in question was said to be needed for a public purpose, namely, accommodating government officers/offices as being a purpose of the Union. This statement by itself, is a sufficient answer, factually, to the contention now raised. The mere fact that the contents of the above said notice were summarized in the order passed by the Collector on 7-8-68 (copy of which is Annexure "H") as requiring the owner to show cause "why the premises should not be requisitioned for accommodating the government offices/officers of Delhi. Administration;" dropping the words "purpose of the Union" could not make any difference especially in the absence of any attack in the petition that officers/offices for which the requisition was made did not subserve the purpose of Union of India a purpose stated already in the earlier notice dated 12-7-68.

(20) The facts, Therefore, on which the decision in the case of Seth Munna Lal(1) was based are, thus, different. We are unable, Therefore, to find any force in the contention of the petitioner that the requisitioning of the premises in this case was not for the purpose of Union of India. The Writ Petition accordingly fails and is dismissed but we make no order as to costs in the circumstances.