
(2016) 08 DEL CK 0068

In the Delhi High Court

Case No : RC.REV. No. 95 of 2016 and CM No. 4954 of 2016

Balvinder Singh Bedi

APPELLANT

Vs

Amit Chadha

RESPONDENT

Date of Decision : 03-08-2016

Acts Referred:

Citation : (2017) 169 AIC 791 : (2016) 233 DLT 273

Hon'ble Judges : Mr. Jayant Nath, J.

Bench : Single Bench

Advocate : Mr. Pradeep Dewan, Senior Advocate with Mr. Desh Raj and Mr. D.K. Kaushik, Advocates, for the Petitioners; Mr. V.K. Kalra and Mr. Chetanya Puri, Advocates, for the Respondent; In person, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Jayant Nath, J.—Learned Senior Counsel for the petitioner has argued that the impugned order of eviction passed by the trial Court dated 22.08.2015 has been passed without hearing any arguments of the petitioner and hence the order is vitiated. He has pointed out that on 15.4.2015 an adjournment was sought by the respondent to withdraw the petition. He relies on order dated 15.4.2015, 8.5. 2015 and 19.5.2015. He submits that on 19.5.2015 the matter was adjourned to 15.9.2015 for withdrawal. However, an early hearing application was filed by the respondent which was taken up on 18.8.2015 and thereafter the matter has been disposed of on 22.8.2015 based merely on the written arguments of the parties.

2. Learned counsel for the respondent has vehemently argued that it is an old matter filed in 2010 and needlessly being delayed. He submits that on 22.8.2015 it was the submission of the petitioner that they will rely on their written submissions. Hence, based on the written submissions filed by the parties, the trial Court has passed judgment on the same.

3. Perusal of the order-sheet reveals that at no stage arguments have been

completed by the parties. In fact, this contention is admitted by the learned counsel appearing for the respondent inasmuch as he states that the order has been passed based on the written submissions filed by the parties.

4. On 19th December, 2014 the trial court noted as follows:-

"19.12.2014

Present: None for the parties.

Matter needs to be heard afresh.

Accordingly, be put up for arguments now on 25.03.2015."

5. Subsequently, the matter was merely adjourned to 15.4.2015, 8.5.2015 and 19.5.2015 for withdrawal of the case. On 19.5.2015 the case was adjourned to 15.9.2015. Thereafter the respondent moved an early hearing application which was listed on 18.8.2015. This was adjourned to 20.8.2015. Noting that summons had not been issued to the petitioner, the case was further adjourned to 22.8.2015. On that date, i.e. 22.8.2015 the Court held as follows:-

"22.8.2015

Present: Ld. Counsel for the parties.

It is submitted by the counsel for the parties that they have already filed Written Arguments in support of their contention which may be read as oral arguments also.

Vide separate judgment, leave to defend application stand dismissed and an eviction order stand passed.

File be consigned to record room."

6. Clearly, no opportunity of being heard has been granted to the petitioner.

7. It is a settled principle of law that no party ought to be condemned unheard.

8. In my opinion, the petitioner could not have been denied opportunity to make submissions before the Court. The impugned order dated 22.8.2015 is set aside. Trial Court will grant fresh opportunity to both the parties to make their submissions. It is made clear that none of the parties will seek adjournment on the date fixed by the trial Court for hearing the arguments of the parties. The trial Court is also requested to expeditiously dispose of the application of the respondent for leave to defend, if possible within three months from today. Accordingly, both the petitions stand disposed of.

9. Parties to appear before the trial Court on 30th August, 2016. Trial Court Record be sent back.