
(2014) 12 RAJ CK 0011
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6667/1993

Bansidhar Gupta	Vs	APPELLANT
State and Others		RESPONDENT

Date of Decision : 16-12-2014

Acts Referred:

Citation : (2015) 1 WLN 383

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Gopal Lal Sharma, Advocate for the Appellant; B.K. Sharma, Addl. Govt. Counsel and Vandana Sharma, Dy. Govt. Counsel, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Mohammad Rafiq, J.

1. This writ petition has been filed by the petitioner who claims to be tenant in a Nazul property-shop bearing No. P-54 situated at Station Road, Chowkari Haveli Shahar, Jaipur, of the respondent-State with the prayer that the respondents be directed to sell the aforesaid shop to him. It is contended by learned counsel for the petitioner that respondents have sold the Nazul shops in that area to the tenants/occupants and, therefore, he should be accorded similar treatment.

2. Learned counsel for the petitioner has made reference to the Case No. 1394 of 1978-State of Rajasthan vs. Madan Lal S/o. Shri Mangi Lal, present occupier Bansidhar (petitioner herein) and Bhalu Ram, which was filed on 31.7.1978 and has been decided in their favour by the Estate Officer vide order dt. 24.2.1990 (Ex. 1).

3. Learned counsel for the petitioner has referred to the case of Madho Lal S/o. Chouth Mal, who was in possession of shop bearing No. P/35 and P/42, which was also the Nazul property situated near Dhabhai-ji-ka-Khurah, Ramganj Bazar, Jaipur. It is argued that the proceedings were initiated before the Estate Officer

for his eviction and the Estate Officer has decided the matter against him directing his eviction vide order dt. 23.11.1985 and the appeal filed by Madho Lal against that too was dismissed by District Judge, Jaipur City, Jaipur vide order dt. 18.10.1986. Madho Lal then filed writ petition before this Court bearing S.B. Civil Writ Petition No. 2320/1986, which too was dismissed vide judgement dt. 22.1.1990. But eventually, the respondents sold the said two shops to the said Madho Lal under sale deed dt. 26.12.1992. Petitioner in para 9 of the writ petition has given instances of 100 such shops, which were all Nazul properties and were sold to the tenants/occupants. Reference is made to the case of one Munna Lal Jain, occupant of property bearing No. P-87 near Ganghori Bazar, Jaipur, which was also Nazul property and sold to him. Similarly, example is given of one Insaf Ali, who was ordered to be evicted by the Estate Officer and his appeal was rejected by District Judge and thereafter he filed the D.B. Civil Writ Petition No. 1930/1987, which was decided vide judgment dt. 14.8.1987 directing the respondents to sell the property to him and the department has eventually sold the said property to Insaf Ali.

4. Learned counsel for the petitioner has referred to the Rajasthan Nazul Buildings (Disposal of Public Auction) Rules, 1971 as amended by State Government vide notification dt. 3.2.1977. It is argued that four point formula has been introduced for the purpose of sale of the Nazul buildings/government properties in which a Committee has been constituted headed by Special Secretary Finance and Members being Additional Chief Engineer, PWD Buildings and Special Secretary, General Administration Department. The petitioner's case ought to be sent to such Committee.

5. Shri B.K. Sharma, learned Additional Government Counsel submitted that the issue as to the sale of the Nazul property to the petitioner on the basis of old occupation can be considered only by the competent authority and, therefore, petitioner should approach such Committee. It is contended that subsequently, fresh instructions/guidelines have been issued by the State Government with regard to sale of Nazul property and, therefore, the case of the petitioner can be considered only as per the latest instructions of the State Government in that behalf.

6. Having regard to the facts aforesaid, the respondents are directed to consider the case of the petitioner on the basis of his old occupation in the light of the fact that similarly situated occupants have been sold such Nazul properties on the basis of old occupation. In the present case, the petitioner his predecessors-in-title are in occupation of the shop in question for more than 60 years. The case of the petitioner may be referred to the Empowered Committee, which may take a decision on his request as per the relevant instructions of the Government within a period of four months. The writ petition is disposed of.