

(2011) 09 SHI CK 0195
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 171 of 2011

Brij Kumar Sharma

APPELLANT

Vs

The Chairman, H.P. Housing Board and Another

RESPONDENT

Date of Decision : 13-09-2011

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2011) 09 SHI CK 0195

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—The Petitioner by means of this petition has challenged the order dated 18.03.2011 passed by the learned District Judge, Solan (Camp at Nalagarh), rejecting the application filed by the Petitioner for grant of interim relief.

2. The undisputed facts are that the Petitioner was allotted HIG House No. 236 in the Housing Board Colony set up by the erstwhile H.P. Housing Board, now known as HIMUDA under the discretionary quota. The Petitioner was handed over the possession of the house on 27th October, 1998 and according to the Petitioner, the house was not complete and was damaged when he took possession of the house.

3. The Housing Board issued notices to the Petitioner to pay the balance amount due to it. The Petitioner did not pay this amount on the pretext that the house had not been repaired and there was seepage and leakage in the house. Thereafter, the Housing Board issued order on 09.06.2004 cancelling the allotment made in favour of the Petitioner and simultaneously initiated proceedings under the H.P. Public Premises and Land (Eviction and Rent Recovery) Act, 1971. The Petitioner filed Civil Suit No. 243/1 of 2004 before the learned trial Court. In this suit, the Plaintiff-Petitioner prayed that a decree for permanent prohibitory injunction and mandatory injunction be passed restraining the Housing Board from evicting him and a decree for declaration be passed

holding that the order dated 09.06.2004 passed by the Housing Board was wrong, illegal, and null and void. After protracted trial, the learned trial Court dismissed the suit on 28th December, 2010. The Petitioner, thereafter, filed an appeal before the learned District Judge and also prayed that pending disposal of the appeal an interim injunction be granted by restraining the Respondents from interfering or dispossessing the Petitioner from the suit premises. This application has been rejected and hence the present petition.

4. From the facts, which are proved on record, it is apparent that till date, the Plaintiff-Petitioner has failed to deposit the balance installments of Rs. 1,83,448/- and, thereafter, the allotment of the house was cancelled on 09.06.2004. Proceedings under the Public Premises Act were also filed and the Collector passed an order of eviction. The Petitioner has filed an appeal before the Commissioner, which is stated to be pending. It is, thus, obvious that the Plaintiff will only be evicted after orders under the Public Premises Act are passed. As such, there is no need to pass an interim order in the present case, since the Civil Court cannot pass any orders restraining the authorities under the Public Premises Act from acting in accordance with law.

5. Furthermore, under Article 227 of the Constitution of India, this Court in exercise of its supervisory jurisdiction can only correct errors of jurisdiction and cannot correct the errors of fact. There is no error of jurisdiction in the order of the learned lower Appellate Court. Therefore, I find no merit in the petition, which is accordingly dismissed.

The lower Appellate Court as well as the Commissioner are directed to dispose of the appeal(s) pending before them latest by 31st December, 2011.

6. With these observations, the petition stands disposed of. No order as to costs.