
(2011) 11 AHC CK 0119
In the Allahabad High Court
Case No : Writ - C No. - 61826 of 2011

Dhanraj

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 22-11-2011

Acts Referred:

Cantonments Land Administration Rules, 1937 — Rule 5A
Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 5A

Citation : (2011) 11 AHC CK 0119

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Judgement

Hon"ble Sudhir Agarwal, J.—Heard Sri Anil Tiwari, learned counsel for the petitioner and Sri S.K. Rai, learned counsel for the respondents.

2. Learned counsel for the respondent submits that in the present bunch of the cases similar land was subject matter of dispute before the Division Bench of this Court in Writ Petition No. 62547 of 2011 and the Hon"ble Court has disposed of the writ petition, vide Judgment dated 2.11.2011 passed in following manner:

Let the copies of General Land Register and order as produced before this Court be kept with the record.

It appears to us that the order impugned under challenge is an order passed by the concerned Estate Officer, respondent no. 3 on 14.10.2011. The petitioner has contended before us that the land, in which petitioner is holding shop, is a land of the Cantonment Board, therefore, the order impugned passed by the Military Estate Officer on 14.10.2011 u/s 5-A of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 is without jurisdiction and as such the respondents be restrained from taking any step or further step in connection thereto. He has also shown us an interim order passed by learned Single Judge in Writ C No. 61829 of 2011 Mohan Singh Vs. Union of India and Others on 21.10.2011.

We have called upon the Mr. S.K. Rai, learned counsel appearing for the respondent-authority, who stated that the land belongs to Class A-2 category under the Cantonment Land Administration Rules 1937. We find that the land of Class A-1 category is under the control and management of the Military Estate Officer. Respondents have further contended that Class A-1 and A-2 category land is required for military authorities for the purpose of fortifications, barracks, stores, arsenals, aerodromes and bungalows etc. for military officers as per Rule 5-A of the said rule. Therefore, the order which has been passed by the Military Estate Officer is within the jurisdiction and the effect of demolition has taken place on 20.10.2011. Hence, the petitioner has no scope to say anything with regard to order impugned.

Learned counsel appearing for the petitioner has annexed the proposal of the Cantonment Board dated 20.9.2011 made for converting such land for the purpose of commercial purposes, when learned counsel appearing for the respondent has stated by showing the General Land Register that land is managed by the Military Estate Officer thereby the land is in the nature of Class A-1 and no change has taken place as yet.

However, we find from the General Land Register that class of the land is A-2. So far as the properties under category A-1 and A-2 are concerned, there is no difference with regard to power of Military Estate Officer or its control. Therefore, at this stage, we are not in a position to pass any affirmative order in favour of the petitioner. But since the petitioner has approached this Court after the displacement, he may suffer the consequences and in case the proposal is accepted for converting the land for the commercial purposes, he may get priority in connection with consideration of his application for appropriate allotment. We think that such prayer is justifiable in nature and, therefore, as and when such situation will arise, the authority concerned will definitely take into account such aspect of the matter.

With the above observations, the writ petition is treated to be disposed of at the stage of admission, on contest, however, without imposing any cost.

3. Sri Anil Tiwari, learned counsel for the petitioner could not dispute that the land as was involved in the case before the Division Bench was similarly situated as land involved in the present bunch of the cases.

4. In these circumstances, once the matter has been decided by the Division Bench of this Court recording a finding that the land belongs to class A-2 category under the Cantonment Land Administration Rules, 1937, this Court finds no reason to abviate from the aforesaid Judgment of the Division Bench of this Court.

5. Accordingly, all these writ petitions are disposed of in terms and for the reasons recorded in the case of Sirajuddin @ Chiruddin Vs. Union of India by the Division Bench of this Court.