

(2012) 04 DEL CK 0184

In the Delhi High Court

Case No : LPA 144 of 2012 and C.M. Application 3265, 3266 of 2012

Gkw Ltd.

APPELLANT

Vs

Life Insurance Corpn. of India and Another

RESPONDENT

Date of Decision : 24-04-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4, 7

Citation : (2012) 04 DEL CK 0184

Hon'ble Judges : S.P. Garg, J;S. Ravindra Bhat, J

Bench : Division Bench

Advocate : Rajiv Virmani, Sh. Atul Shanker Mathur and Sh. Aseem Chaturvedi, for the Appellant; Kamal Mehta, Sh. Sudeep Singh, Advocates, Lic., Sh. Kamal Mehta and Sh. Sudeep Singh, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Justice S. Ravindra Bhat

C.M. APPL. 3265/2012 & C.M. APPL. 3266/2012

For the reasons mentioned in the application, C.M. Appl. 3265/2012 and C.M. Appl. 3266/2012 are allowed.

LPA 144/2012 & C.M. APPL. _____(to be numbered) (for stay)

1. The appellant challenges an order of the learned Single Judge dated 19.12.2011 by which the determination/judgment of the Additional District Judge dated 06.07.2007 had been upheld. The Additional District Judge had confirmed the calculation of damages by the Estate Officer, in terms of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereafter called "the Act"). The appellant was an old lessee on the second floor of 3, Parliament Street, New Delhi (measuring 4584 sq. ft. area on the second floor) demised to it since February 1963 on monthly rent of Rs. 8027.25/-It appears that the lease was extended from time to time and ultimately the arrangement ended on

30.11.1996. The appellant did not vacate the premises. In these circumstances, the respondent, LIC, the lessee, issued a Show Cause Notice under Sections 4 and 7 of the Act, on 17.10.1997, calling upon the tenant to vacate the premises and to pay damages. During pendency of these proceedings, the appellant handed-over possession on 15.10.2003. However, the payment of damages, demanded by the LIC was not made. In these circumstances, the Estate Officer proceeded with the determination and by order dated 05.01.2004, directed the appellant to pay Rs. 2,91,54,728/-. An appeal was preferred against this determination which was rejected by the Constituted Appellate Authority, i.e. the Addl. District Judge, on 06.07.2007. The appellant again unsuccessfully questioned this order in a Writ Petition under Article 226 of the Constitution of India.

2. It is urged that the findings of learned Single Judge that there was no illegality in the calculation of damages, particularly since the Estate Officer did not take into account the lease deed dated 20.01.2000 (in which the rental agreed between the tenant CMC and the respondent, i.e. Rs. 25/-per square feet per month) was unsustainable. It was argued that the premises let-out to CMC was comparable with the demised premises since both were located on the second floor, unlike with Bank of Tokyo Mitsubishi Ltd., the lease for which was dated 24.04.1997, which was taken into consideration to base the order for damages in the present case. The Estate Officer had directed payment of Rs. 70/-per square feet per month with 10% interest per annum based upon the lease deed entered into between the LIC and Bank of Tokyo Mitsubishi Ltd. It was urged that the learned Single Judge merely surmised that the arrangement between the CMC and LIC was not an "arm's length" transaction since both were public sector units. In this context, it was also highlighted that the LIC owned some shares in the present appellant and therefore, there was some kind of parity, in its dealings as in the case of CMC. We have considered the submissions. As is evident from the previous discussion, the Estate Officer took into consideration the relevant records placed before him. Apparently, the appellant did not choose to lead any evidence to rebut the materials furnished by the lessor respondent, in support of its claim. In any event, the appellant felt aggrieved and chose to approach the appellate authority, an independent personage in the form of Addl. District Judge, who went through the entire material and rejected the appeal. Its petition under Article 226 was unsuccessful. Whether the Estate officer's preferring to base the order or direction for damages on the basis of one lease deed (which was proximate in point of time to the determination of lease in the present case) or another, a subsequent lease deed in respect of another premises can hardly be the subject matter of the appellate proceedings under Article 226 of the Constitution of India, and that too, in Letters Patent Appeal. We are of the opinion that having regard to the entirety of circumstances, all the relevant materials were considered by the Single Judge to arrive at a perfectly reasonable and sound finding. These do not call for any interference. The appeal is, therefore, dismissed.