**(2012) 10 DEL CK 0080**

**In the Delhi High Court**

**Case No :** Writ Petition (C) 3721 of 2012 and CM No''s. 7802 and 11351 of 2012

Gondal Press APPELLANT

Vs

Punjab National Bank and Another RESPONDENT

**Date of Decision :** 31-10-2012

**Acts Referred:**

**Citation :** (2012) 10 DEL CK 0080

**Hon'ble Judges :** Sunil Gaur, J

**Bench :** Single Bench

**Advocate :** Ajay Puri and Mr. Amitabh Narayan, for the Appellant; Rajat Sharma, for the Respondent

**Final Decision :** Dismissed

# Judgement

Sunil Gaur

1. Impugned order of 31st May, 2011 upholds petitioner''s eviction from ground floor and mezzanine floor of premises No. 12/90 at Cannaught Place, New Delhi (henceforth referred to as the ''subject premises''). Respondent-a nationalized bank had purchased subject premises in an auction and the said sale was confirmed by this Court in September, 1974. As respondent-bank had required subject premises for its own bonafide personal use, tenancy of petitioner in the subject premises was terminated by a Notice of 1st November, 1983. Though proceedings for eviction of petitioner from subject premises had commenced under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 in the year 1984, but they had remained stayed as petitioner had preferred writ petition before the Apex Court, which was disposed of in March, 1990. Thereafter, eviction proceedings were resumed. Estate Officer after recording the evidence produced, had passed eviction order of 27th March, 2012 which has been upheld by the Appellate Authority, whose order is under challenge in this writ petition. The principle contention advanced by learned senior counsel for petitioner is that eviction proceedings stands vitiated, as opportunity to lead evidence was declined to petitioner and because the subject premises had been

already re-entered and that the bonafide requirement of respondent-Bank is not established.

2. To controvert the aforesaid stand taken on behalf of petitioner, respondents'' counsel relies upon the impugned order to assert that question of re-entry cannot be subject matter of eviction proceedings when land-lord tenant relationship between the parties is undisputed and bonafide requirement of respondent-Bank stands established from evidence of respondents'' witness and petitioner suffers no prejudice because witnesses from Land & Development Office as well as from the New Delhi Municipal Council (hereinafter referred to as the ''L & D.O. and NDMC'') were not summoned, as it was just a ploy to prolong the eviction proceedings and that non-examination of witnesses from L & D.O. and NDMC does not vitiate the eviction proceedings.

3. Submissions advanced, impugned order and the material on record has been duly considered and thereupon it transpires that Estate Officer in its order of 27th March, 2012 (Annexure-B) has framed the issues while passing the order which at first glance, appears to be somewhat incongruous but when eviction order (Annexure-B) is read as it is, then it becomes apparent that use of terminology ''issues'' has been inappropriately used whereas what was formulated by the Estate Officer in eviction order (Annexure-B) is the points of determination. Therefore, on this account neither the eviction order (Annexure-B) nor the impugned order (Annexure-A) can be faulted with.

4. At the hearing, much reliance was placed by senior counsel for petitioner upon Estate Officer''s order sheet of 9th April, 2010 to show that he was proceeding with pre-determined mind, as much time was consumed by respondent-Bank in filing the rejoinder and so, denial of opportunity to petitioner to examine witnesses from L & D.O. and NDMC violates the principles of natural justice, as pendency of eviction proceedings for twenty six years cannot be a valid ground to deny opportunity to petitioner to lead evidence.

5. During the course of hearing, it was put to senior counsel for petitioner as to what for witnesses from L & D.O. and NDMC were to be summoned and then it was disclosed that from the evidence of these witnesses it could be shown that the subject premises was re-entered and mutation of subject premises was not in favour of respondent-Bank and this is so evident from RTI Information of April, 2010 (Annexure-D). To say the least, non-examination of witness from NDMC causes no prejudice to petitioner as witness of respondent-Bank had already admitted that the subject premises has not been mutated in its favour. It would be relevant to note the reason put-forth by the witness of respondent-Bank for subject premises having not being mutated in its favour, is that occupants of subject premises had not allowed its inspection by L & D.O. officials. Even the evidence of witness from L & D.O. regarding subject premises being re-entered would not be of any consequence in the eviction proceedings because once the relationship of land-lord and tenant between the parties is undisputed then petitioner cannot legitimately question the ownership of respondent-Bank,

 

particularly when sale of subject premises to respondent-Bank has been affirmed by this Court vide its Order of 16th November, 1973 (Annexure-E).

6. In view of the aforesaid, the question of re-entry of subject premises pales into insignificance and so RTI information (Annexure-D) which was very much available when petitioner had tendered its evidence and had not relied upon it, would not advance the case of petitioner. Regarding bonafide requirement of subject premises by respondent-Bank, not much is required to be said because there is evidence of Shri N.S. Nayak, Senior Manager of respondent-Bank, of huge rentals being paid by it for running its administrative offices, branches etc.. The evidence tendered on behalf of respondent-Bank of bonafide need of subject premises for administrative/branch offices remains unshaken in cross-examination. Finding no palpable error in the impugned order, I dismiss the writ petition with costs which are quantified at Rs. 50,000/- only and interim order of 13th June, 2012 stands vacated. Pending applications are disposed of as infructuous.