

(1991) 09 PAT CK 0045
In the Patna High Court
Case No : C.W.J.C. No. 174 of 1986

Harihar Vishwakarma and Others	APPELLANT
Vs	
Cantonment Board, Danapur Cantonment and Others	RESPONDENT

Date of Decision : 13-09-1991

Acts Referred:

COMPANIES ACT, 1956 — Section 3

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 2, 3, 4, 5

Citation : (1991) 39 BLJR 1294 : (1992) 1 PLJR 94

Hon'ble Judges : U.P. Singh, J; Binod Kumar Roy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

U.P. Singh, J.—The present writ application has been preferred against the judgment of the Additional Sessions Judge, Patna, dated 30-11-1985 contained in Annexure-3 in the appeal preferred by the petitioners from the order of the Estate Officer of the Cantonment Board, Danapur under Sections 4 and 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter to be referred as "the Act"). On the basis of reports of the Cantonment Overseer, the Estate Officer of the Cantonment Board started eviction proceedings and directed the notices to be served on the petitioners u/s 4(1) of the Act. After return of the service reports, in a summary proceeding, the Estate Officer held that the petitioners were unauthorised occupants over the Cantonment Board's land and directed them to vacate the premises within the specified days. On appeal preferred before the Additional Sessions Judge, the sole contention of the petitioners that the premises under dispute are not public premises within the meaning of Section 2C of the Act was repelled and overruled.

2. Before considering the said question raised herein this writ application on behalf of all the petitioners, it is relevant to consider the short facts. The Cantonment Estate Officer had allotted a temporary licence for occupation of land for the construction of a "Gumtee" only to petitioners 1 and 2 in the years 1975

and 1976 for a period of one year and after that the licence was not renewed. Thereafter, the Estate Officer (respondent No. 2) served a notice for payment of damages for unauthorised occupation of the "land The petitioners 3 to 6 were never allotted any portion of land either for construction of a "Gumtee" or for any residential purpose. They forcefully occupied the Cantonment Board's land without paying any rent to the Cantonment "Board The first and the second petitioners "had paid the damages charges for encroachment. of the "Gumtee" in the month of March 1985 their licences were not renewed and as such, their rents were Not accepted by the Board. The licence was strictly for a period of one year and the terms and conditions of the said licence were also violated which itself made them liable for eviction from the premises. When the petitioners did not "vacate the premises in question, after expiry of the period of licence, then the Estate Officer-cum-Executive Officer (respondent No. (2) served a notice u/s 4(2)(a) of the Act on 24-8-1985 directing them to, show cause as to why an order of eviction be not passed for unauthorised occupation of the land in question. The first and the second petitioners appeared before respondent No. 2 and filed show cause on 9-9-1985. They were heard and after considering their show cause, a notice u/s 5(1) of the Act was served, on 12-9-1985 by the Estate Officer directing them to vacate the premises within the stipulated time.

3. By a notification contained in S.O. No. 1104, dated 7-5-1959 as amended upto 30-4-1974, in exercise of the powers conferred by Section 3 of the Act the Central Government appointed the officer mentioned in column No. 1 of the table being Gazetted Officers "of Government, to be Estate Officers for the purposes of the Act to exercise powers conferred and to perform the duties imposed on the Estate Officers by or Under the said Act within the local limits of the respective jurisdiction in respect of the public premises specified " in the corresponding entries in column No. 2 of the table. Annexure-C is quoted here under:-

Extract from the Ministry of Works, House and Supply notification S.O.1104 dated 7-5-1959 as amended Upto 30-4-1974:

S.O.1104. In exercise of the powers by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958) and in continuation of this Ministry's Notification No. S.O. 307, dated the 28th January, 1959 published in the Gazette of India (Part II Section 3, Sub-section (ii) dated the 7th February, 1959, the Central Government hereby appoints the officers mentioned in column 1 of the table below, being gazetted of officers Government, to be Estate Officers for the purposes of the said Act who shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public . premises specified in the corresponding entries in -column 2 of the table:

THE TABLE Designation of Officers Categories of Public Premises and local limits of Jurisdiction (1) (2) 36. Air Cantonment Executive Officer Premises under the adminis- trative control of the Ministry of Defence placed under the; management of. the respective Cantonment, Boards under Cantonment Land

Administration Rules, 1937 or vested in them under the Cantonment Property Rules, 1925.

4. The "Estate Officer" has been defined u/s 2(b) of the Act:-

"Estate officer" means an officer appointed as such by the Central Government u/s 3 of the Act.

"Public Premises" has been defined in Section 2(e) of the Act:-

public premises" means--

(1) any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government, and includes any such premises which have been placed by that Government, whether before or after the commencement of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980, under the control of the Secretariat of either House of Parliament for providing residential accommodation to any member of the staff of that Secretariat;

(2) any premises belonging to, or taken on lease by, or on behalf of,--

(i) any company as defined in Section 3 of the Companies Act, 1956, (1 of 1956), in which not less than fifty-one per cent, of the paid-up share capital is held by the Central Government or any company which is a subsidiary (within the meaning of that Act) of the first-mentioned company;

(ii) any corporation (not being a company as defined in Section 3 of the Companies Act, 1956 (1 of 1956), or a local authority) established by or under a Central Act and owned or controlled by the Central Government,

* * * * *

5. The undisputed fact is that the defence land and cantonment land are managed through the Director Military, land and cantonment and its lands, plots, sheds are given on lease or licence to any person through its Executive Officers and Estate Officers of the said Cantonment Board. In the present case the entire premises within the Cantonment Area of the Danapur Cantonment, of which the premises in question is only a part, belonged to the Central Government and is controlled by Defence Department of the Government of India. Even the lease or licence in question have been executed by the Executive Officer of the Cantonment Board for and on behalf of the President of India i.e. Central Government. Thus, obviously, the premises in question belonged to the Central Government and it is controlled by it and, therefore, it falls within the definition of the Act as defined in Section 2(e)(1) of the Act.

6. The Public Premise Act was enacted with a view to provide for speedy and summary eviction of the unauthorised occupants from the premises of the Central Government. Section 5 of the Act provides for taking possession of the Public Premises which are in unauthorised occupation of the persons. The expression used in the statute are to be interpreted and given meaning in the

context in which they are used. Since the present Act has been placed in the statute with a view to give summary remedy to the Government to evict persons in occupation of Public Premises in order to obviate the long ordeal of the trial in the civil court and all further proceedings thereafter. Hence a wider meaning will have to be given to the expressions used in the Act for defining the concept of public premises. Thus no doubt, the expression "belonging to" does not mean the same thing as "owned by". The two expressions have two different connotations. The expression "belonging to" will take within its sweep not only ownership but also rights lesser than that of ownership. Therefore, there is no reason why the premises, of which possession for the time being vests in the Government and which are allotted by the Government to others while so in possession should not be held to be public premises. In the present case the entire premises within the Cantonment area of the Danapur Cantonment, of which the premises in question is a part, belonged to the Central Government and is controlled by the Defence Department of the Government of India. Therefore, the sole contention of the petitioners, that the premises in dispute are not Public Premises within the meaning of the Act has been rightly overruled by the Estate Officer and the appellate court. The reliance placed by the petitioners on the case of S.R. Gupta v. 4th Additional Sessions Judge and Ors. 1980 U.P. 2 RCC page 66 is not applicable to the facts of the present case. In the said case the colony was constructed on the land given by the Central Government for Central Government low income group employees of the Cantonment Board, Meerut. The entire building belonged to the Central Government for the low income group of the society of the Cantonment Board and was under control and being looked after by the said society. In the present case the entire premises within the Cantonment Area of the Danapur Cantonment, including the disputed premises, belong to the Central Government and is controlled by the Defence Department of the Government of India. Even the lease or licence in question have been executed by the Executive Officer of the Cantonment Board for and on behalf of the President of India i.e. Central Government.

7. In this view, this writ application fails and is accordingly dismissed. There shall be no order as to costs.

Binod Kumar Roy, J.

8. I agree