
(2001) 02 SC CK 0105

In the Supreme Court Of India

Case No : Civil Appeal 1518 of 2001 and Special Leave Petition(C) 9292 of 2000

K.K. Verma

APPELLANT

Vs

State of J. and K. and Others

RESPONDENT

Date of Decision : 26-02-2001

Acts Referred:

Citation : AIR 2002 SC 628 : (2002) AIRSCW 230 : (2001) 4 JT 430 : (2002) 10 SCC 406

Hon'ble Judges : V. N. Khare, J;N. Santosh Hedge, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted.

2. The father of respondent No. 4 was granted lease in respect of plot Nos. 27A and 28A situated at Roulki, Bhakshi Nagar, Jammu on a monthly rent of Rs. 30/-. The lease deed provided that on a notice being given, the lessee would vacate the premises. Subsequently, the State of Jammu and Kashmir determined the lease and asked the lessee to vacate the premises. On 16-5-1973 the Estate Officer proceeded against respondent No. 4 for eviction under the J. & K. Public Premises (Eviction of Unauthorised Occupants) Act. The Estate Officer after hearing respondent No. 4 passed an order of eviction after having found that respondent No. 4 is an unauthorised occupant. Subsequently, the said order on appeal preferred by respondent No. 4 was set aside by learned District Judge. On remand the Estate Officer again heard respondent No. 4 and found that he is an unauthorised occupant. Consequently, the Estate Officer passed an order of eviction of respondent No. 4 from the premises in dispute. After passing of the said order, the State Government on 21st July, 1982 allotted the premises in favour of the appellant herein on payment of Rs. 25,000/- per kanal. Respondent No. 4 thereafter preferred an appeal against the order of Estate Officer before the District Judge. The said appeal was dismissed by the learned District Judge. Thereafter respondent No. 4 filed two writ petitions challenging the order of the

learned District Judge rejecting his appeal as well as the order of allotment passed in favour of the appellant. The learned single Judge of the High Court dismissed the writ petitions. Respondent No. 4 thereafter preferred two Letters Patent Appeals before a Division Bench of the High Court. The High Court did not interfere with the appeals preferred by respondent No. 4 against the order of eviction wherein he was found to be an unauthorised occupant. So far as the other Letters Patent Appeal relating to allotment in favour of the appellant was concerned the same was allowed and judgment of learned single Judge was set aside and the matter was sent back to Revenue Secretary for consideration afresh. However, the High Court after disposing of the appeals directed that the order of eviction shall not be executed till the matter is decided by the Revenue Secretary. Against this part of the order the appellant is in appeal before us.

3. We have heard learned Counsel. On perusal of the record, we find that the proceedings initiated against respondent No. 4 under the Public Premises Act, has attained finality after the appeal was dismissed by the Division Bench. The status of respondent No. 4 being of an unauthorised occupant was not entitled to continue in possession over the land. The High Court fell in error in issuing direction that the order of eviction shall not be executed till the matter is decided by the Revenue Secretary despite he was held to be an unauthorised occupant. For the aforesaid reasons, we set aside the part of the order of the High Court whereby respondent No. 4 was allowed to continue in possession over the land till the decision by the Revenue Secretary.

4. The appeal is allowed accordingly, No costs.