

(2000) 01 DEL CK 0006
In the Delhi High Court
Case No : C.W.P. No. 1512 of 1975

Madan Mohan Goyle

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 27-01-2000

Acts Referred:

Citation : (2000) 3 AD 301 : (2000) 84 DLT 556 : (2000) 56 DRJ 144

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : Mr. S.K. Kaul and Mr. Biswajit Chatterjee, for the Appellant;

Judgement

C.M. Nayar, J.—The petitioner is aggrieved by the Order dated 3rd December, 1975 passed by Shri O.P. Singla, Additional District Judge, Delhi arising out of an appeal u/s 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as "the Act") against the Order of the Estate Officer, Directorate of Estates, Nirman Bhawan, New Delhi u/s 5 of the Act. The brief facts of the case are that an Order of eviction was made against the petitioner on 29th March, 1975 from Shop No. 189, Mohan Singh Market, New Delhi on account of his being declared as an unauthorised occupant. The reason for issuing the Order is stated in the notice dated 19th October, 1973 which reads as below :-

"Dear Sir/Madam,

You are in occupation of the above mentioned Government premises. The rent of these premises has not been paid regularly and consequently, the following amounts are outstanding as on 1.9.1973 :

(a) Rent Rs. 1725/- (b) Water charges Rs. - (c) Service charges Rs. - -----
Total Rs. 1725/- ----- (Note:- Service charges will be claimed separately when determined.

2. In view of the default made by you in the payment of rent etc. the President

of India is pleased to revoke your Tenancy with effect from the expiry of the month of November, 1973 and give you this notice asking you to vacate the above said premises immediately on expiry of the month of November, 1973.

3. On your failure to handover the vacant and peaceful possession of the above premises to the Executive Engineer Division C.P.W.D. New Delhi, you shall for any subsequent period of your occupation of the said premises be liable to pay damages at the rate of Rs. 370.88."

2. Notice in the petition was issued and subsequently it was discovered that there was some omissions in the posting of books of accounts and, Therefore, Rule in the petition was also issued. The following Order was made on 27th April, 1976 which reads as below :_

"27.4.76. Present Mr. B.N. Kirpal for the petitioner Mrs. Urmila Kapur for the respondents.

Mrs. Urmila Kapur says that she has checked up the accounts and, it seems, there was some omission in the posting of the books of accounts. According to her, the petitioner is in arrears of Rs. 69/-. According to the petitioner, if the security is taken into consideration, there will be no arrears. Mrs. Kapur states that she will take further instructions in this view of the matter. To come up on 19th May, 1976.

Stay of dispossession in the meanwhile."

3. Subsequently when Rule was issued on 25th May, 1976 and the interim Order of stay of dispossession was granted in C.M. No. 2468/75 which reads as follows:_

"C.M. No. 2468/75

Stay of dispossession on the condition that the petitioner deposits with the appropriate authority of the respondents month to month license fee as claimed by the respondents. The respondents will give to the petitioner an account of any arrears due. This amount will be deposited by the petitioner with the appropriate authority of the respondents within 15 days of receiving the account from the respondents. Thereafter, the petitioner will deposit license fee/damage month to month at the rate indicated in the bill of the respondent for arrears by the 15th of each month".

4. The learned counsel for the petitioner has contended that the petitioner has paid the arrears and there is no amount outstanding as of date as the petitioner is continuing to pay the license fee which is being accepted by the respondents.

5. There is no appearance on behalf of the respondents in Court. The averments as made in the petition are not controverted. The impugned notice dated 19th October, 1973 as well as the Order passed u/s 9 of the Act are, accordingly quashed. The petition as a consequence is allowed and the Rule is made absolute. There will be no order as to costs.