
(2003) 07 JH CK 0062

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3444 of 2003

Md. Nizamuddin Khan

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-07-2003

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 9(1)

Citation : (2003) 3 JCR 523

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Sanjoy Kr. Sinha, for the Appellant; A.K. Sahani, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by petitioner against the order dated 21st June, 2003, passed by Sri Arun Kumar Rai, Additional District and Sessions Judge-III, Dhanbad in Misc. Appeal No. 27/02 whereby and where under the appeal preferred by petitioner u/s 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, has been dismissed and the order of eviction dated 20th May, 2002 passed by the Estate Officer-cum-Divisional Engineer (Headquarter), Eastern Railway, Dhanbad has been upheld.

2. According to petitioner, the Railway quarter No. 166/D, at Diamond Crossing, Dhanbad was allotted in favour of one Sri Ishaque Khan, who entered into an agreement on 27th January, 1990 with him (the petitioner) after taking Rs. 50,000/- as security,- and rented the Railway quarters in his favour @ Rs. 300/- per month till the period of retirement of Sri Ishaque Khan. The authorities without taking into consideration the aforesaid agreement, have ordered to evict the petitioner from the Railway quarters in question.

3. Counsel for the petitioner submitted that Sri Arun Kumar Rai, Additional District and Sessions Judge-III, Dhanbad having no ten years standing experience as District Judge, had no jurisdiction to decide the appeal u/s 9(1) of

the Act, 1971, the appeal should have been decided by the District Judge of the district in which the public premises is situated or such other judicial officer in the district not less than 10 years standing experience as the District Judge may designate on his behalf. But aforesaid submission cannot be accepted as the expression "District Judge" includes Additional District Judge.

4. The Punjab and Haryana High Court in the case of Tara Singh Vs. Additional District Judge, Ferozepur and Another, noticed the provision of Section 9 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and held that the expression "District Judge" includes Additional District Judge. 10 years standing to deal with an appeal in terms of Sub-section (1) of Section 9 of the Act is not applicable for an Additional District Judge. The requirement of 10 years" standing is prescribed for Judicial Officer other than the District Judge. The expression "District Judge" does not talk of a persona designata but "District Judge" as a Court. Had it been otherwise, then the District Judge could not designate any Judicial Officer to deal with the appeal for District Judge as a persona designata, the District Judge does so only if he acts as a Court.

5. This apart, the petitioner though not an employee of Railway but is occupying a Railway quarters not allotted to him by any competent authority, the agreement, if any, reached between the petitioner and one Sri Ishaque Khan being not binding on the Railways, the petitioner cannot claim any right to occupy the quarters,

6. In the aforesaid circumstances and as the petitioner is a stranger, unauthorized occupant, this Court is not inclined to interfere with the order under writ jurisdiction, at the instance of the petitioner.

7. There being no merit, the writ petition is dismissed.