
(2012) 03 SHI CK 0152
In the High Court Of Himachal Pradesh
Case No : CWP. No. 4829 of 2010

Sh. Tej Ram

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 26-03-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2012) 03 SHI CK 0152

Hon'ble Judges : Dev Darshan Sood, J

Bench : Single Bench

Advocate : Ajay Sharma, for the Appellant; P.K. Sharma, A.A.G. with Ms. Shubh Mahajan, Dy. Advocate General, for the Respondent

Final Decision : Allowed

Judgement

Dev Darshan Sud, J.—The petitioner prays for an appropriate writ directing the respondents to pay use and occupation charges for the premises which have been used by the State for running a Health Sub Centre in village Neen, Post office, Durgapur, Tehsil Suni, District Shimla. It is undisputed before me that the State which is in occupation of the building since 1.9.1996 till date, is not the owner of these premises. It is also undisputed that the petitioner herein is the owner of these premises. The only dispute which exists is with respect to the payment of rent/use and occupation charges.

2. When this writ petition was taken up for proceedings on 28.10.2010, this court directed:

Admitted. The due and admissible rent shall be paid to the petitioner within a period of one month from the date of production of copy of this order. Post on 4.1.2011.

3. Pursuant thereto, in reply, the respondents submit that the rent from 1.8.2007 to 31.7.2010 i.e. three years prior to the date of filing of the civil writ petition has been paid on the basis of an assessment made by the PWD authorities.

4. The learned Additional Advocate General submits (a) that the petitioner is not entitled to any rent prior to three years of filing the writ petition as the claim is barred by limitation. (b) That it is a disputed question of fact and cannot be determined in writ proceedings.

5. Before advertng to these two submissions, I need to consider the communication (Annexure:P2) sent by the Block Medical Officer to the Executive Engineer, Kumarsain Division, HP. PWD Kumarsain, which reads:

To

The Executive Engineer, Kumarsain Division, HP.PWD, Kumarsain.

Sub:

Regarding revised Rent Reasonability Certificate w.e.f. 1.9.1996 to 31.3.2009 of Health Sub-Centre Nee under CHC Suni, Block Officer Mashobra.

Sir,

In continuation to this office letter No. PHC-MBA/192-95 dated 1.5.2009 & your office letter No. PW-KMS-HA-RRC 2009-63 dated 20.6.2009 it is to inform your good self that his office had requested to send the rent reasonability certificate w.e.f. 1.9.1996 to 31.3.2009 and not w.e.f.1.4.2008 to 31.3.2009 of Sub Centre building owner Sh. Tej Ram S/o Sh. Tara Chand vill. Neen, P.O. Durgapur, The. Suni Distt. Shimla.

It is therefore requested that the necessary Rent Reasonability Certificate may please be issued w.e.f. 1.9.1996 to 31.3.2009 to this office so that further action could be taken accordingly.

Thanking you,

Yours faithfully, Sd/ Block Medical Officer, PHC. Mashobra.

6. The first submission made on behalf of State requires to be rejected. What I find is that the State is fighting like a cantankerous litigant denying the petitioner use and occupation charges for a room which it has been utilizing continuously since 1996. The plea set up by the State is that the limitation should and ought to be invoked against the petitioner. This is contrary to the guarantee enshrined Articles 14 and 21 of the Constitution of India which provides that no person shall be deprived of his life and personal liberty except due process of law. The State cannot appropriate property of a citizen gratis. This is impermissible in any constitutional system governed by the Rule of Law. On the second submission that the case requires to be determined in a Civil Suit, this submission cannot be accepted more especially in view of the fact that no facts are disputed. The State occupies the property of a citizen and then turns around and says that it does not have to pay any rent/use and occupation charges to the owner. Such a plea deserves to be rejected outright. This writ petition is, therefore, allowed. A direction is issued to the respondents to pay to the petitioner the amount due

and payable for the use and occupation of the premises w.e.f. 1.9.1996 to 31.7.2007 and 1.8.2010 to 31.3.2012. Cost of Rs.10,000/- is on the State.