

(2003) 03 CHH CK 0010
In the Chhattisgarh High Court
Case No : Civil Revision No. 773 of 2001

Shankar Loha

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 31-03-2003

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4, 4(2), 9

Citation : (2003) 03 CHH CK 0010

Hon'ble Judges : Fakhruddin, J

Bench : Division Bench

Advocate : Malay K. Bhaduri, for the Appellant; N.K. Shukla Vinay Harit, Garima Arya and Shri Shailendra Shukla, for the Respondent

Judgement

Fakhruddin, J.—This order shall also dispose of the following civil revisions - (1) C.R. No. 774/2001 (Abdul Gaffar v. Union of India Anr.), (2) C.R. No. 775 (D.N. Dama v. Union of India and Anr.), (3) C.R. No. 776/2001 (Suresh Rathi v. Union of India and Anr.), (4) C.R. No. 777/2001 (Arun Kumar Kashyap v. Union of India and Anr.), (5) C.R. No. 778/2001 (Raj Kumar v. Union of India Anr.), (6) C.R. No. 779/2001 (Dinesh Kumar v. Union of India Anr.), (7) C.R. No. 780/2001 (Sadram v. Union of India and Anr.), (8) C.R. No. 781 (Hukul Lal v. Union of India Anr.), (9) C.R. No. 782/2001 (Om Singh Thakur v. Union of India and Anr.), (10) 783/2001 (Narmada Parsed v. Union of India and Anr.), (11) C.R. 784/2001 (Nakcheduram and Anr. v. Union of India and Anr.), (12) C.R. 785/2001 (Yogendra Singh Chhabra v. Union of India and Anr.), (13) C.R. 786/2001 (Raj Kumar Poptani v. Union of India and Anr.), (14) C.R. 787/2001 (Ratanlal Dayaram Agtrawal v. Union of India and Ors.), (15) C.R. 788/2001 (Onkar v. Union of India Anr.), (16) C.R. 789/01 (Hariram Mahavar v. Union of India Anr.), (17) C.R. No. 790/01 (Indrajeet Singh v. Union of India and Anr.), (18) C.R. No. 791/01 (Gyan Chandra v. Union of India and Anr.), (19) C.R. No. 792/01 (Satish Kumar v. Union of India and Anr.), (20) C.R. No. 793 (Murli Manohar v. Union of India and Anr.), (21) C.R. 794/2001 (Jahur Ahmed v. Union of India and Anr.), (22) C.R. No. 795/01 (Sirajuddin v. Union of India and Anr.), (23) C.R. No.

796/01 (Chintaram v. Union of India and Anr.), (24) C.R. No. 797 (Ajay Kumar v. Union of India Anr.), (25) C.R. No. 798/01 (Yadav Ram Sahu v. Union of India and Anr.), (26) C.R. No. 799/01 (Subhash Chandra Agrawal v. Union of India and Anr.) as the common question is involved.

2. This revision has been filed against the Order 31-7-2001 where by the lower appellate Court remanded the matter to the Estate Officer.

3. Briefly stated facts are that the Estate Officer, South Eastern Railways, Bilaspur Division served notice that the Applicant is an unauthorized occupant of Railway Property. Reply was filed. Evidence was adduced and parties were heard. Eviction order was passed on 24-1 -2000. The Applicant preferred Miscellaneous Appeal u/s 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 before the District Judge. The notices of appeal were served on Railways. Certain documents were filed on behalf of the Railways showing that the land in question is of the Railway property. Copies supplied. The Applicants disputed the claim. The lower appellate Court in impugned order noted that the notice which has to be issued under Public Premises (Eviction of Unauthorized Occupants) Act, 1971 which reads in Hindi as follows: " ? ? () ? , 1971", but while translating the same in Hindi version, it has been mentioned as ? . It was noted that there was mistake in the title of the notice.

4. So far as these proceedings are concerned, learned Counsel for the Applicant submits that before initiating eviction, notice to show cause under the provisions of Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is required to be issued against the order of eviction. Section 4 of the Act is relevant here and quoted below:

4. Issue of notice to show cause against the order of eviction ? (1) If the estate Officer is of the opinion that any persons are in unauthorized occupation of any public premises and that they should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall ?

(a) specify the grounds on which the order of eviction is proposed to be made.

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises,?

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than seven days from the date of issue thereof; and (ii) to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises and in such

other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

5. Counsel for the Respondents submits that the land in question is of the Railways property and they be permitted to have the proceedings afresh and serve the notice under the provisions of the Act and on such notice being served, the Applicant will get the opportunity to put forward the case. Counsel for the Applicant submits that he has no objection if the Respondents will serve notice afresh under the said Act and the Applicant is given opportunity of hearing to prove his case.

6. Having considered the facts and circumstances of the case, material on record and further having heard counsel for parties and in view of the provisions contained in Sub-section (2) of Section 4 of the Act, ends of justice would be served if the Applicant is given notice afresh and thereafter is given opportunity of hearing and to adduce evidence if so desired. Accordingly, the matter is remitted back to the Estate Officer.

7. With the direction/observation aforesaid, this petition is disposed of finally.

8. A copy of this order be placed in all the connected matters mentioned above.