
(2002) 09 DEL CK 0193
In the Delhi High Court
Case No : CW No. 5646 of 1998

Sheel Kumar Vijay

APPELLANT

Vs

New Delhi Municipal Council and Others

RESPONDENT

Date of Decision : 24-09-2002

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4, 4(1), 5, 7

Citation : (2002) 09 DEL CK 0193

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Nem, for the Appellant; Hima Kohli, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Petitioner has filed this writ petition seeking a writ of certiorari for quashing the order of cancellation and eviction No. 917/1861/85 dated 5.9.85 received on 7.8.97 and case No. 44/125/88/EO dt. 25.5.88 passed on 24.7.97. Petitioner also challenges the order dated 23.9.98, passed by the Additional District Judge dismissing the appeal against the order passed by the Estate Officer.

2. Petitioner had been allotted Shop No. 4, CSC Netaji Nagar Market, New Delhi. Allotment was for the trade of sale and repair of watches etc. license was renewed from time to time and the last renewal expired on 9.10.84. The petitioner was offered by the NDMC renewal of the license for a further period subject to enhancement in the license fee by 30%. Petitioner did not avail of the said offer. Upon expiry of the license period the petitioner became an unauthorised occupant. Petitioner has been in arrears of license fee. Proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, (hereinafter referred to as "the Act") was initiated and a consolidated order under Sections 5 and 7 of the Act was passed. The Estate Officer also assessed the damages @ Rs. 502/- p.m., which was less than evidence of market value as adduced by the respondents.

3. Petitioners claim that no notice u/s 4 of the Public Premises (Eviction of Unauthorised Occupants) Act was served upon the appellant has no factual foundation. The Additional District Judge has duly noticed in its judgment that petitioner has accepted the receipt of notice u/s 4(1) pursuant to which he also participated in the proceedings. No ground is made out for interference in the exercise of writ jurisdiction.

4. From a statement of account filed by the respondents, it is noticed that the license fee is being claimed by NDMC at Rs. 721/-. It has been brought to the attention of the learned counsel for the respondent that the damages as ascertained by the Estate Officer are Rs. 502/- together with interest at 15%, while the statement of account filed by the respondent shows the demand at Rs. 721/-. Learned counsel for the respondent has noted the discrepancy and states that needful in accordance with law would be done.

5. It may also be noted that the case of the respondent is that the petitioner has since then transferred the premises by entering into a partnership agreement, followed by a dissolution deed. An affidavit of the petitioner confirming the partnership, its dissolution and transfer of the shop has been produced by one Mr. Rajesh, who has requested the respondent to transfer the license deed of the shop in his favor. It would be for the Respondent to consider the same. As far as the present petition is concerned, the same has no merit and is dismissed.