

(2006) 10 DEL CK 0177
In the Delhi High Court
Case No : LPA No's. 2019-20 of 2006

Shri Ilyas Azmi and Another

APPELLANT

Vs

Directorate of Estates

RESPONDENT

Date of Decision : 18-10-2006

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 3A, 4, 5, 5(1), 9

Citation : AIR 2007 Delhi 44

Hon'ble Judges : V.K. Jain, Acting C.J.; Kailash Gambhir, J

Bench : Division Bench

Advocate : Sanjay V.S. Chaudhary, for the Appellant;

Final Decision : Dismissed

Judgement

Kailash Gambhir, J.—The appellant is aggrieved with the order passed by the learned Single Judge dated 06.10.2006 in W.P.(C) No. 14907-08/2006 and has challenged the same by filing the present appeal. The main grievance of the appellant is that he has not been given adequate time to take recourse u/s 9 of the Public Premises Act so as to challenge the eviction order which has been passed by the Estate Officer u/s 5 of the Public Premises Act. The appellant has also contended that vide letter dated 14th /17th July 2006, the Lok Sabha Secretariat had directed the Office of Directorate of Estates to keep in abeyance the eviction proceedings and, Therefore, any notice served by the Directorate of Estates u/s 5 of the Public Premises Act prior to 14th/17th July, 2006 was of no consequence.

2. We have heard the learned Counsel for the appellant and have perused the order passed by the learned Single Judge. The brief facts which are not in dispute inter-alia are that at the request of appellant No. 1 who was a Member of Parliament, a guest accommodation was allotted for a short period w.e.f. 2.1.2006 to 1.4.2006 on payment of license fee at market rate. The appellant has filed the said allotment letter dated 30.12.2005 as Annexure P-1 which

clearly stipulates that on the expiry of the period of allotment, the guest accommodation shall have to be vacated. It would be relevant to reproduce para 1 of the allotment letter as well as paras 1 and 4 of the terms and conditions of allotment which are as under:

With reference to your letter dated_____ on the subject mentioned above, I am directed to state that Flat No. 102, North Avenue, is allotted to you w.e.f. 2.1.2006 to 1.4.2006 ONLY for the use of Guest purposes on payment of market rate of license fee. Other terms and conditions of the allotment may please be seen on reverse. On the expiry of the period of allotment the guest accommodation shall have to be vacated.

OTHER TERMS AND CONDITIONS

1. This allotment is purely on temporary basis for the period specified and no extension beyond that period will be given without specified orders of the Chairman, House Committee, Lok Sabha.

4. The Member will be personally responsible for vacation of accommodation by the guest at the expiry of the period of allotments and immediate action will be taken by the Directorate of Estates to evict the guest from the accommodation allotted to him or completion of the allotted period unless the period of allotment is formally extended and the advance license fee Therefore paid. This letter will be deemed to be treated as a cancellation letter after expiry of allotment period in terms of Section 3A/4 of the Public Premises (Eviction of unauthorised Occupants) Act, 1971, by the DoE.

3. A bare perusal of the aforesaid terms and conditions would clearly show that the guest accommodation was given for a very brief period and as per the terms and conditions of the allotment letter, the position was made explicitly clear by the Lok Sabha Secretariat that there will not be any extension and on the expiry of the allotment period, the guest accommodation would have to be vacated. The appellant should have appreciated that the guest accommodation if extended like this, then it would defeat the very purpose of accommodating other guests at the request of other MPs and similar like position holders.

4. Although the appellant has relied upon the letter dated 14.7.2006 whereby the Lok Sabha Secretariat had directed to keep the eviction order in abeyance but vide letter dated 5.9.2006 which is annexed as Annexure P-4, the Lok Sabha Secretariat has given clear direction to the Office of the Directorate of Estates to re-initiate eviction proceedings in respect of the guest accommodation which was allotted by virtue of the aforesaid allotment letter.

5. Another contention which has been raised by the appellant that he has not been given adequate opportunity to take recourse to Section 9 of the Public Premises Act for filing an appeal against the order passed by the Estate Officer u/s 5(1) of the Public Premises Act is also devoid of any substance. The learned Single Judge has passed the impugned order after perusing the records of the

Estate Officer. Order u/s 5(1) of the Public Premises Act was passed on 22.6.2006 whereby the appellant was directed to vacate the premises within 15 days from the date of publication of the order. As per the report of the Postal Department, the said eviction order was duly delivered to the appellant on 27.6.2006 and copy of the said order was also separately affixed on the door of the premises in question on 28.6.2006. The statutory appeal which has been provided u/s 9 of the Public Premises Act could be filed within 12 days from the date of publication of the order and since no such remedy was availed by the appellant, Therefore, the appellant cannot claim the benefit of the said remedy of filing the statutory appeal after having not chosen to file the same within the prescribed period of limitation. Since the appellant was duly served with the eviction order, Therefore, the plea of the appellant that he was not served with the copy of the eviction order also does not hold any water.

6. The learned Single Judge has passed a reasoned order and the same does not require any interference.

7. The appeal has no merit and, Therefore, the same is dismissed.