
(1961) 09 P&H CK 0030
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 348-D of 1961

Sibhat Ullah

APPELLANT

Vs

Sahib Ram

RESPONDENT

Date of Decision : 27-09-1961

Acts Referred:

Slum Areas (Improvement and Clearance) Act, 1956 — Section 19, 2, 36

Citation : (1962) 1 ILR (P&H) 552

Hon'ble Judges : Prem Chand Pandit, J

Bench : Single Bench

Advocate : S.N. Chopra, for the Appellant; R.S. Narula, for the Respondent

Final Decision : Dismissed

Judgement

Prem Chand Pandit, J.—In October, 1957, Sahib Ram filed a suit for the ejectment of his tenant, Sibhat Ullah, from the premises in dispute on the grounds of nonpayment of rent and bona fide requirement for personal use. This suit was dismissed by the trial Court, but was decreed on appeal by the learned District Judge in October, 1959. This decree was also confirmed by the High Court in March, 1960. Since the property in dispute was situated in a slum area, the decree for ejectment could only be executed with the permission of the Competent Authority under the Slum Areas (Improvement and Clearance) Act (No. 96 of 1956). On 29th March, 1960 Sahib Ram filed an application for the necessary permission u/s 19 of the Act and obtained the same, after contest, on 14th November, 1960. It may be mentioned that the permission was granted by Shri Parmatma Sarup, Assistant Commissioner, who had been delegated the powers of the "Competent Authority" u/s 36 of the Act by Shri P.R. Nayak, Commissioner, Municipal Corporation Delhi, who had been appointed the Competent Authority for the purposes of the said Act by the Chief Commissioner of Delhi. On 15th November, 1960, the tenant made an application to Shri Parmatma Sarup, Assistant Commissioner, for the review of his order dated 14th November, 1960. Along with this application, the tenant also prayed for interim

stay of the operation of this order. On the same day, the interim stay was granted and the application was fixed for hearing on 6th December, 1960. On 3rd December, 1960, the tenant also filed a revision against the order dated 14th November 1960, before the Commissioner, Municipal Corporation of Delhi, who on the same date passed an ex "parte stay order in his favour. On 6th December, 1960, since nobody on behalf of the tenant appeared before Shri Parmatma Sarup in the review application filed by him, the same was dismissed and the stay order granted in the same also came to an end. On 14th December, 1960, the Landlord Sahib Ram, put in an application for the execution of the decree for eviction in the trial Court on the basis of the permission granted to him by Shri Parmatma Sarup on 14th November, 1960. On 15th December, 1960, the tenant made an application before the Executing Court, praying that the decree should not be executed because the implementation of the order passed by Shri Parmatma Sarup had been stayed by him and the same was also under enquiry before the Commissioner, Municipal Corporation, in revision, thereupon, the Executing Court allowed the tenant to produce the alleged stay order by 22nd December, 1960. On this date, another application was put in by the tenant before the same Court, alleging that the order passed by Shri Parmatma Sarup was without jurisdiction and ineffective. He also filed a letter received from the Deputy Commissioner, Municipal Corporation, intimating that the revision filed by him against the order of Shri Parmatma Sarup dated 14th November, 1960 was under consideration of the Commissioner, Municipal Corporation. On this very date, the Executing Court dismissed the objection of the tenant against this order he filed an appeal before the learned Senior Subordinate Judge alongwith an application for interim stay of the execution of the ejectment decree passed against him. The learned Senior Subordinate Judge granted an ex parte stay order and gave notice of the stay application to the landlord for 30th December, 1960. On this date, after hearing the parties, the ex parte stay order was vacated. On 2nd January, 1961 the tenant filed another application before the Executing Court praying for the stay of the execution on the basis of the stay order granted by the Commissioner, Municipal Corporation on 3rd December, 1960. On this very date, this application was dismissed by the said Court. Against this order, another appeal was filed by the tenant before the learned Additional Senior Subordinate Judge on 17th January, 1961. On 13th April, 1961 the Commissioner, Municipal Corporation, dismissed the revision filed before him on 3rd December, 1960 by the tenant and on 17th April, 1961, this fact was brought to the notice of the learned Additional Senior Subordinate Judge by the landlord by means of an application. The first appeal before the learned Senior Subordinate Judge was also transferred to the Court of the Additional Senior Subordinate Judge on 13th June, 1961, he dismissed both the appeals by one judgment. On 16th June, 1961, the tenant filed a writ petition (Civil Writ No. 794 of 1961) in this Court for quashing the order of Shri Parmatma Sarup dated 14th November, 1960. This was, however, dismissed in limine by a Division Bench of this Court on 11th July, 1961. On 19th July, 1961, the present two revision petitions (Nos. 348-D and 349-D of 1961) were filed by the tenant against the

order of the learned Additional Senior Subordinate Judge dismissing both the appeals mentioned above. Both these petitions will be disposed of by this judgment.

2. The sole question for decision in this case is whether the order dated 14th November, 1960 passed by Shri Parmatma Sarup u/s 19 of the Act was valid or not.

3. By Notification No. F. 1 (22)/57-LSG, dated 15th June, 1959, the Chief Commissioner of Delhi, in exercise of the powers conferred by Section 2(c) of the Act, appointed the Commissioner of the Municipal Corporation of Delhi as the "Competent Authority" for the purposes of the said Act. On 29th July, 1959, the Commissioner, Municipal Corporation of Delhi, issued the following notification:

No. 4(4)/59-12-Law. Corporation Whereas the Chief Commissioner of Delhi in exercise of the powers conferred on him by Clause (c) of Section 2 of the Slum Areas (Improvement and Clearance) Act, 1956 (96 of 1956) has appointed me as the "Competent Authority" for the purpose of the said Act,-vide Notification No. 1(22)/ 57-LSG, dated the 15th June, 1959.

I, in exercise of the powers conferred on me by Section 36 of the said Act, direct that the powers conferred on me by the sections of the said Act mentioned in column 1 of the following Schedule shall, subject to my supervision, control and revision, be exercised also by the officers of the Municipal Corporation of Delhi, mentioned in column 2 of the said Schedule.

SCHEDULE

(1) (2)

Section 19 Designation of officer

(i) Deputy Commissioner (Engineering)

(ii) Assistant Commissioner (Sd.) P.R. NAYAK, Commissioner, Municipal Corporation of Delhi

(H.Q.)

4. By virtue of the powers conferred on him by the notification, dated 29th July, 1959, Shri Parmatma Sarup, Assistant Commissioner (Headquarters) passed the impugned order dated 14th November, 1960. Learned Counsel for the Petitioner submitted that this order of Shri Parmatma Sarup would be valid only if it was confirmed by the Commissioner, Municipal Corporation (Competent Authority) because it was mentioned in the notification, dated 29th July, 1959, that the powers conferred on Shri Parmatma Sarup were to be exercised by him "subject to my (Commissioner, Municipal Corporation) supervision, control and revision." After hearing the learned Counsel for the parties, I am of the view that there is no force in this submission. Section 36 of the Act is in the following terms-

The Competent Authority may, by notification in the Official Gazette, direct that

any power exercisable by it under this Act may also be exercised, in such cases and subject to such conditions, if any, as may be specified in the notification, by such officer or the local authority as may be mentioned therein.

5. A bare reading of this section would show that the Competent Authority was authorised to delegate its power under the Act to any officer or local authority to be exercised by them in such cases and subject to such conditions as specified in the notification. Once the Competent Authority delegates its powers to any officer under this section, then that officer shall also have the same powers as the Competent Authority itself has under the Act. In other words, that officer will also be dealing with the cases as "Competent Authority" under the Act. This is clear from the word "also" used in this section. The expression "in such cases" occurring in this section refers to the cases relating to those sections of which powers, exercisable by the Competent Authority, have been delegated to the officer or the local authority concerned. The words "subject to such conditions" in this section contemplate that the Competent Authority can say that the powers under a particular clause of a section only will be exercised by the officer or the local authority concerned while the rest by the Competent Authority itself. It can also mention that the cases relating to a particular area only will be decided by them. The intention of the Legislature seems to be that in order to reduce its work, the Competent Authority can delegate its powers in certain cases or relating to a particular area, which it deems proper. But, under no circumstances, can it be held that the Legislature intended that the Competent Authority could invest itself with the powers of revision or supervision over the orders passed by the officer or the local authority concerned. It follows therefore, that the Commissioner, Municipal Corporation, Delhi, could not insert the words "subject to my supervision, control and revision" in the notification, dated 29th July, 1959 by virtue of the powers given to him u/s 36 of the Act. That being so, the order, dated 14th November, 1960, passed by Shri Parmatma Sarup was valid and could not be revised by the Commissioner, Municipal Corporation, Delhi.

6. In view of what I have said above, these revision petitions fail and are dismissed. In the circumstances of these cases, however, I would leave the parties to bear their own costs throughout.