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(2003) 08 DEL CK 0068

In the Delhi High Court

Case No : CW No. 1172 of 2002

Smt. Gayatri Devi — APPELLANT

Vs

Union of India (UOI) and Others — RESPONDENT

Date of Decision : 05-08-2003

Acts Referred:
Constitution of India, 1950 — Article 226
Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4, 7, 9

Citation : (2004) 109 DLT 471 : (2004) 75 DRJ 353

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : K.K. Patel, for the Appellant; Jagjit Singh, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—Rule. With the consent of the parties, the matter is taken up for final arguments and disposal. The petitioner has impugned the order dated 9.1.2002 passed by the learned Additional District Judge in PPA 542/2000. The petitioner has also prayed for a writ of mandamus or any other appropriate writ, order or direction directing the respondent No. 1 to regularise the Quarter No. 55 /C-1, Chhota More Sarai, Delhi in the name of the petitioner from the date she is allegedly entitled under Circular No. 15.1.1990 issued by the Railway Board. A writ has also been sought directing the respondent to charge normal rent from the petitioner for the period from 8.6.1990 to the date of regularisation.

2. Late Sh. Jagdish Prasad, husband of the petitioner was allotted Railway Quarter No. 55 /C-1, Chhota More Sarai, Delhi during his service. He was transferred to Jind (Haryana) and due to his transfer, the allotment of the quarter in question was cancelled w.e.f. 28.6.1990. The petitioner''s husband passed away on 8.3.1991. The petitioner requested the respondent to regularise the quarter in question in her favor. This request for regularisation was rejected by a letter dated 29.11.1995 on the ground that the occupation of the quarter was not regular. Thereafter, a Section 4 notice was issued under the Public Premises

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(Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as ''the Act'') on 18.2.1997. Notice u/s 7 with respect to damages was also issued on 18.2,1997. Thereafter, the Estate Officer, after hearing the petitioner, passed an order on 8.2.1999 whereby the petitioner was ordered to be evicted from the said premises and was required to pay damages for the period of unauthorised occupation. It is particularly noted in the Estate Officer''s order in paragraph 4 thereof that the only question that was for adjudication before him was "whether the public premises is under unauthorised use and occupation of the respondent and if so, consequences thereof?" This question has been answered by the Estate Officer whereby he held that it was an admitted fact that as a consequence of transfer of the petitioner''s husband, the quarter in question was cancelled w.e.f. 28.6.1990. The Estate Officer has recorded that it is an admitted fact that the quarter in question has not been regularised in favor of the respondent even after the death of the petitioner''s husband on 8.3.1991. Accordingly, the Estate Officer held the petitioner to be in unauthorised occupation w.e.f. 28.6.1990 and, accordingly, passed the order of eviction and also imposed damages.

3. Being aggrieved by this order of the Estate Officer dated 8.2.1999, the petitioner preferred an appeal u/s 9 of the said Act. That appeal was also disposed by the learned ADJ by a judgment and/or order dated 9.1.2002 wherein the finding of the Estate Officer to the effect that the petitioner was an unauthorised occupant had been confirmed. In view of these clear findings, no interference with the order passed by the learned ADJ is called for. Moreover, in exercise of its writ jurisdiction, this Court does not sit as a Court of appeal. No jurisdictional error has been pointed out. Nor has any violation of principles of natural justice been demonstrated. In such circumstances, it has been the consistent practice of this Court not to interfere with judgments and/or orders passed in appeals u/s 9 of the said Act.

4. However, there is one aspect of the matter which needs clarification. The learned Counsel for the petitioner submitted that all the while the petitioner has been representing with respect to regularisation of the allotment with the respondents. Her representation for regularisation had been rejected by the order dated. 29.11.1995 as indicated above. Yet, upon a subsequent representation made by the petitioner, there is a letter dated 15.4.1997 which indicates that the question of regularisation had not been completely settled. The petitioner, it must be pointed out, filed a petition before the Central Administrative Tribunal (CAT) being OA No. 447/1999 which was withdrawn by the petitioner with liberty to pursue her remedies in the appropriate forum in accordance with law. Apparently, that petition which was before the CAT was in respect of the eviction order passed by the Estate Officer. The petitioner perhaps withdrew the said petition before the CAT in view of the order passed by the Supreme Court in the case of Union of India v. Rasila Ram in Civil Appeal Nos. 1301-4/1990 wherein the Supreme Court categorically held that CAT did not have any jurisdiction to entertain petitions in respect of the orders passed by the competent authorities under the said Act. It may be noted that the petitioner at

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this stage has stated that she would like to move the CAT not with regard to eviction order and the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, but with regard to her case for regularisation. Liberty is granted to the petitioner to move the CAT in this respect only. In view of the discussion and facts and circumstances, no interference is, however, called for with the impugned order of learned ADJ. The petitioner approaching the CAT as above will not in any way entitle her to challenge the impugned judgment and/or order of the learned ADJ which has become final.

Accordingly, Rule is discharged. The writ petition is dismissed.

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