

(1956) 01 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 278 of 1955

Sohan Lal	Vs	APPELLANT
The Punjab State		RESPONDENT

Date of Decision : 12-01-1956

Acts Referred:

Punjab Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 3

Citation : AIR 1957 P&H 34

Hon'ble Judges : Bishan Narain, J

Bench : Single Bench

Advocate : C.B. Aggarwal, for the Appellant; S.M. Sikri, General, for the Respondent

Final Decision : Allowed

Judgement

Bishan Narain, J.—This is a petition under Article 226 of the Constitution of India for issue of an order in the nature of a writ against the Punjab Government directing it to cancel the notice of requisition of the property in dispute. The petitioner Seth Sohan Lal owns five new built bungalows in Civil Lines, Ludhiana. . It appears that he was under the impression that all his five houses had been requisitioned by the Government but in the reply "filed to the present petition it is stated that only three of these houses were requisitioned- .

In any case, the petitioner's case is that house No. BX/113-279 was requisitioned in 1947. He approached the District Magistrate for derequisitioning of the house but he was informed that the house had never been requisitioned. Thereupon he decided to file a suit to get the occupant of the house ejected. Before the suit, however, could be filed, Seth Sohan Lal received on or about 15th February, 1955, orders of the District Magistrate that the premises in dispute had been requisitioned and that he should surrender possession.

He has approached this Court on the ground that no notice under Sub-section (1) of Section 3 of the Punjab Requisitioning and Acquisition of Immovable Property

Act, 1953 was ever served upon him and that he had no opportunity to show cause against " the requisition and on these grounds besides others the petitioner prays for setting aside the order of requisition.

2. In reply to this petition the respondent stated in para 10(d) of the affidavit filed by the District Magistrate. Ludhiana that notice u/s 3(1) of the Punjab Requisitioning and Acquisition of Immovable Property Act. 1953, was served on the petitioner and was received by Chhajju Ram an employee of Seth Sohan Lal. It is further stated that the petitioner did not show any cause against the proposed requisition and therefore he failed to avail himself of the opportunity afforded to him under the Act.

It is, therefore, clear that it cannot be said that under this section the notice was served on the owner unless it is shown that he could not be. personally served and in that case service on his Officer or any adult member of his family or by affixation would be sufficient. In the present case the statement is that the notice was received by Chhajju Ram an employee of the petitioner. The petitioner has denied having received the notice or having had knowledge of the proceedings taken u/s 3 against him.

It is impossible to hold under these circumstances that notice was served on the petitioner. There is no allegation that notice could not be served on him personally. Where the competent authority decides to requisition anybody's property, it is a serious matter for the owner of the property and I am of the opinion that the word "officer" used in this Act in Section 15 does not refer to a mere employee or a servant-of the owner.

The word "officer" has not been defined in the Act nor has it been defined in the General Clauses Act. In ordinary sense of the meaning I am of the opinion that an employee cannot be considered to be an officer of the person whose property is being requisitioned. In the Punjab Municipal Act notice can be served on the servant of an owner of the property. In the present Act the word "servant" has not been used.

3. In these circumstances, it must be held that no notice was served on Seth Sohan Lal under. Section 3(1) of the Act and in the absence of service of that notice on him he could not show cause against the proposed requisition and therefore the requisition u/s 3(2) of the Act must be held to be invalid.

4. The result is that this petition is accepted and the order of requisitioning is quashed. The respondent shall pay the costs of this petition which I assess at Rs. 50/-.