(2012) 11 DEL CK 0098

In the Delhi High Court

Case No : LPA No''s. 678 and 681 of 2012

S.S. Khera APPELLANT

Vs

Punjab National Bank and Others RESPONDENT

Date of Decision : 02-11-2012

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2012) 11 DEL CK 0098

Hon'ble Judges : Rajiv Sahai Endlaw, J;D. Murugesan, J

Bench : Division Bench

Advocate : D.K. Rustagi with Mr. Arpit Bhargava and Mr. Gaurav Arora, for the Appellant; Y.P. Chandana, for PNB and Mr. Amrit Pal Singh, CGSC for R-3, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—These intra-court appeals impugn the common judgment dated 30th July, 2012 of the learned Single Judge dismissing W.P. (C) No. 2922/2010 & W.P. (C) No. 2925/2010 preferred by the appellant, along with seven other writ petitions preferred by others. All the said writ petitions were filed impugning the common order dated 26th March, 2010 of the District Judge exercising powers as an Appellate Authority under The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (PP Act) dismissing the appeals preferred against the orders of the Estate Officer of the respondent Bank of eviction from different portions of Punjab National Bank Building, Arya Samaj Road, Karol Bagh, New Delhi. The appellant herein, being in possession of two premises/ shops, preferred two writ petitions and these two appeals. The challenge to the order of eviction is predicated mainly on the Guidelines notified on 30th May, 2002, with the contention being, that the eviction orders are contrary to the said Guidelines. These appeals came up before us first on 9th October, 2012 when we invited attention of the counsel for the appellant to the judgments of the Division Bench of this Court in Life Insurance Corporation of India Vs. Damyanti Verma

(2012) 188 DLT 741 and in Indian Instt. of Public Opinion Pvt. Ltd., Ahuja Refrigeration P. Ltd. and P.P. Chaudhary Vs. Insurance Corporation of India, . The counsel for the appellant though claimed to be aware of the judgment in Damyanti Verma, sought time to study the judgment in Indian Institute of Public Opinion Pvt. Ltd. The matter was accordingly adjourned to 11th October, 2012.

2. On 11th October, 2012, the counsel for the appellant fairly stated that all aspects urged by the appellant save one are covered by the judgments aforesaid of the Division Bench of this Court and that he will take his remedies there against before the Supreme Court. He however contended that the respondent Bank in the present case had accepted the said Guidelines and which was not the position in either of the judgments aforesaid and for which reason, notwithstanding the Guidelines in the said judgments having been held to be not binding, in so far as the respondent Bank is concerned, is bound thereby. Attention in this regard is invited to the minutes of the meeting held in the respondent Bank on 22nd May, 1992 to review the Estate cases pending before the Estate Officer and Appellate Courts and in which minutes it is recorded that the Deputy Zonal Manager of the respondent Bank had confirmed that the Guidelines laid down by the Government were being followed by the respondent Bank. It is contended that the 2002 Guidelines are merely a reiteration of the 1992 Guidelines and irrespective of the judgments aforesaid of this Court holding the Guidelines to be not binding, the respondent Bank having accepted the same is bound thereby and is estopped from now declining to be bound by the same.

3. We are not impressed. At the outset, it may be stated that in para 26 of Indian Institute of Public Opinion Pvt. Ltd. it has been expressly held that there can be no estopple and legitimate expectation contrary to law and it is not open to the respondent to dilute the provisions of the PP Act. Thus not only has the only argument raised been also dealt with in the Indian Institute of Public Opinion Pvt. Ltd. but we are also of the view that no officer of the respondent Bank could be said to have authority to, in supersession of the law i.e. the PP Act, give any confirmation. Yet further it may be stated that as already noticed in the judgments supra of the Division Bench of this Court, the Guidelines themselves were clarified by the Central Government on 23rd July, 2003 to the effect that the Guidelines will not apply to affluent tenants. We had also enquired from the counsel for the appellant as to why the respondent Bank should be asked/directed to continue with the appellant as a tenant at a rent far below the prevailing market rent and as to how the respondent Bank which is a State within the meaning of Article 12 of the Constitution of India can be allowed to give benefits to one citizen over all others. Needless to state that no answer was forthcoming. We therefore do not find any merit in these appeals and dismiss the same.

No costs.

