

(2010) 01 CHH CK 0018
In the Chhattisgarh High Court
Case No : Writ Petition No. 2630 of 2001

Steel Authority of India Ltd.

APPELLANT

Vs

Sartaj Gera and Others

RESPONDENT

Date of Decision : 22-01-2010

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 2

Citation : (2010) 1 MPJR 103

Hon'ble Judges : Nawal Kishore Agarwal, J

Bench : Division Bench

Judgement

N.K. Agarwal, J.

The instant petition is directed against the order dated 9-10-2001 passed by IInd Additional District Judge, Durg in Misc. Appeal No. 4-99 whereby and whereunder the appeal preferred by the respondent No. 1 was allowed holding the Public Premises (Eviction of Unauthorized Occupations) Act, 1971 (briefly, "the Act") inapplicable in the facts of the present case.

Indisputably, the petitioner- Company is a company registered under the Indian Companies Act, 1956 (1 of 1956) with its head office at New Delhi and functioning at Bhilai under the name and style Steel Authority of India Limited, Bhilai Steel Plant; is owner of the disputed premises; the Disputed premises was given to respondent No. 1 on a monthly licence of Rs. 100/- for a period of one year, which was subsequently extended for 5 years on certain conditions, and the said period is over.

As per the petitioner, the licence was expired on 17-7-1994 and as such, the respondent was required to vacate the said premises immediately but did not vacate and remained in its unauthorized occupation; also encroached upon additional areas measuring 330.84 sq. ft., and therefore, the respondent No. 1 vide order dated 6-3-2009 was directed by the Estate Officer, Bhilai to vacate the same and also to pay past and future damages. The appeal preferred by the

respondent No. 1 against the said order was allowed by the impugned order.

Dr. N.K. Shukla, learned Sr. Advocate, appearing for the petitioner would submit that learned Court below has erred in allowing the appeal by holding that "unauthorized licensee" does not come within the purview of word "unauthorized occupant" and also the words "occupant" and "allottee" are not one and the same.

Per contra, Shri Arjun Yadav, learned counsel for the respondent No. 1 would submit that learned Court below has not committed any illegality in passing the impugned order.

I have heard learned counsel for both the parties and perused the order impugned.

Before appreciating the contentions raised by the parties, it would be appropriate to go through the relevant provisions contained in the Act. Section 2(fb) defines "temporary occupation" and 2(g) defines "unauthorized occupation."

2(fb). "temporary occupation", in relation to any public premises, means occupation by any person on the basis of an order of allotment made under the authority of the Central Government, a State Government, the Government of a Union Territory or a statutory authority for a total period (including the extended period, if any) which is less than thirty days.

(g) "unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

As per the above referred definition, "temporary occupation" in relation to any public premises means occupation by any person on the basis of an order of allotment made under the authority of the Central Government, a State Government, the Government of a Union Territory or a statutory authority for a total period (including extended period, if any) which is less than 30 years and "unauthorized occupation" means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

A conjoint reading of the aforesaid definitions would reveal that a person shall be deemed to be in unauthorized occupation of a public premises where he has before or after commencement of the Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant or by any other mode of transfer, and includes continuance in occupation by any person of

the public premises after the authority under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

The word "possession" connotes one single terminus, viz. the point of time when a person enters into possession or occupies the property whereas occupation is a continuous process which starts right from the point of time when a persons enters into possession or occupies the premises and continues until he leaves the premises. Therefore, the word "occupation" has a vide connotation and it includes in its ambit possession as licensee and therefore, the word "unauthorized occupation" includes in its ambit unauthorized licensee also. In the same manner word "allottee" would mean a person who is in occupation of a premises by allotment, means by legal means, and therefore, the distinction drawn between the words by the Court below is totally unwarranted and uncalled for and the provisions of the Act squarely applicable in the facts and circumstances of the present case.

For the foregoing the order passed by the Court below cannot be sustained, the same deserves to be and is hereby set aside. The matter is remitted back to the Court below to decide the appeal afresh in accordance with law on its own merit. The Court below is expected to decide the appeal expeditiously. The parties shall maintain status quo with regard to possession of disputed premises for a period of two months from today. The respondent No. 1 is free to apply before the trial Court for interim relief during the pendency of appeal.