
(2016) 06 DEL CK 0021
In the Delhi High Court
Case No : W.P. (C) 5650 of 2016

Sunita Bharti

APPELLANT

Vs

Commandant of Army Hospital (R&R)

RESPONDENT

Date of Decision : 20-06-2016

Acts Referred:

Citation : (2016) 6 ADDelhi 480

Hon'ble Judges : G.S. Sistani, J.

Bench : Single Bench

Advocate : Mr. Harsh Ahuja, Advocate, Mr. Kanwal Chaudhary, Advocate, for the Appellant; Rajesh Gogna, CGSC, Mr. Vivek Goyal, CGSC, for the Respondent

Final Decision : Disposed Off

Judgement

G.S. Sistani, J.—CM.APPL 23419-420/2016(stay) in W.P.(C) 5650/2016 CM.APPL 23435/2016 (stay)in W.P.(C) 5654/2016 Challenge in these writ petitions is to the order dated 27.05.2016(hereinafter referred to "impugned order") passed by the respondent by which the electricity supply to the shops granted on licence to the petitioners have been disconnected.

2. Both the petitioners were allotted shops under a licence deed in the Army Hospital(R&R), Delhi Cantt. The petitioner in Writ Petition No. 5650/2016 was allotted Shop No. 1 and Shop No. 2 while petitioner in Writ Petition No. 5654/2016 was allotted one Shop. Admittedly, the licence in respect of both the writ petitions stand revoked due to afflux of time. After receipt of the impugned order, the petitioners in both these writ petitions had approached the Trial Court by filing appeals under Section 9 of the Public Premises (Eviction of Un-authorised Occupants) Act. Both the appeals were dismissed by the Trial Court as withdrawn and the following order was passed:

"Ld. Counsel for the respondent has filed the reply to the grounds of appeal in the shape of an affidavit mentioning therein that the appeal is not maintainable under Section 9 of the Public Premises(Eviction of Un-authorised Occupants) Act

as order has not been passed by the Estate Officer and as such, the present appeal is pre mature. Copy thereof supplied.

In view of the statement in the shape of an affidavit, the appellant appearing in person states that she wishes to withdraw the present appeal with the liberty to file the appeal as and when order is passed under Section 5, 5(B), 5(C) of the PP Act by the duly appointed person by the Central Government by its official Gazette.

Let the statement of the appellant be recorded."

3. Mr. Chaudhary, learned counsel for the petitioner submits that in terms of Clause 14 of the Licence Deed, the licensee is liable to be evicted under the Public Premises Eviction Act. Counsel submits that till today, no Estate Officer has been appointed since the date of the first notice in December, 2015 and, on the other hand, the respondents have decided to take the law in their own hand and have issued the impugned order.

4. Learned counsel for the respondents submits that the petitioners have no right to occupy the shops after the period of licence came to an end. It is contended that their possession is illegal. It is also contended that the writ petitions are not maintainable. Reliance is placed by the counsel for the respondents on the judgments in the case of M.P. Sethi(Retd.) v. Union of India, reported at 2010(175) DLT 687 and Thomas Cook (India) Limited v. Hotel Imperial & Ors., reported at 2006(127) DLT 431. On the maintainability, the learned counsel for the respondents have placed reliance on the judgment in the case of Joshi Technologies International INC. v. Union of India & Ors., reported at 2015(7) SCC 728.

5. Mr. Chaudhary, learned counsel for the petitioner prays that till the next date of hearing having regard to the weather conditions and even otherwise taking into consideration that the respondents have not initiated proceedings under the Public Premises(Eviction of Un-authorised Occupants) Act, the respondents be directed to restore the electricity supply forthwith. Mr. Chaudhary has also placed reliance on the judgment in the case of Satish Verma v. DV. B, reported at 2002(5) AD(Delhi) 881.

6. I have heard the learned counsel for the parties. Clause 14 of the Clause 14 of the Licence Deed, reads as under:

"14. In the event of termination of the License Deed, if the Licensee does not vacate the premises and hand over the possession to the Licenser, the Licensee is liable to be evicted under Public Premises Eviction Act and to pay the damages as imposed by the competent authority."

7. There is no explanation as to why after the notice of December, 2015, the respondents have till date not appointed an Estate Officer to initiate proceedings under the Public Premises(Eviction of Un-authorised Occupants) Act. The respondents cannot be permitted to take law in their own hands and keeping in

view the extreme weather, the respondents are directed to restore the electricity to the shops of the petitioners within four days from today.

8. Till the next date of hearing, the impugned order is stayed. It is made clear that this order is without prejudice to the rights and contentions of both the parties. All legal rights and objections raised by the respondent is kept open.

9. List the writ petitions and the applications before the Roster Bench on 28.07.2016.