
(1972) 01 DEL CK 0025

In the Delhi High Court

Case No : Letter Patent Appeal No. 105 of 1969

The Collector and Another

APPELLANT

Vs

Satwant Kaur

RESPONDENT

Date of Decision : 12-01-1972

Acts Referred:

Citation : (1972) 8 DLT 307

Hon'ble Judges : Hardayal Hardy, C.J;Prakash Narain, J

Bench : Division Bench

Advocate : B. Kishore, J.P. Gupta, B. Kirpal and Anil Razdan, for the Appellant;

Judgement

Hardayal Hardy, C.J.

(1) This appeal under clause 10 of the Letters Patent is directed against, a judgment of a learned Single Judge in Civil Writ No. 288 of 1968 -delivered on 1st September, 1969 whereby the petition was accepted and the respondents were directed to de-requisition the premises and restore the possession thereof to its owner. The appellants are the collector of Delhi and Delhi Administration while the respondent is Smt. Savant Kaur, resident of 49/S3, Western Extension Area, Karol Bagh, New Delhi.

(2) The petition relates to house No. 49, Blok No. 53 Western Extension Area, Karol Bagh, New Delhi of which the respondent claims to be the owner. The property originally belonged to one Mr Chopra and was requisitioned by an order of the Collector Delhi u/s 3(4) of the Delhi Premises (Requisition and Eviction) Act, 1947 which will hereafter be referred to as the old Act with effect from 26th March. 1949 in response to an application filed by the Central Relief Committee of the All India Congress Committee for providing accommodation to the workers of the said relief Committee who were engaged in the relief and rehabilitation work in the State of Delhi.

(3) On 17th November, 1961 the respondent who had purchased the property from Mr. Chopra, made a representation to the Collector that she was in urgent

need of the property herself On 13th August, 1965 two rooms in the said house were de-requisitioned but as no separate kitchen, bathroom and latrine were available to her the rooms were not suitable for her residence.

(4) The respondent contended that as she had not been keeping good health for several years and she needed the property for her own use and that the purpose for which the accommodation was given to the Relief Committee of the All-India Congress Committee no longer existed, the property should be de-requisitioned. Her application was however rejected and it was said that it was not possible to de-requisition the remaining portion of the house immediately; but as soon as alternative accommodation was available for the present occupants, action for de-requisitioning the premises would be taken. In January 1968 one of the flats in the said house fell vacant but instead of de-requisitioning the same it was allotted to Mr. Jha, a teacher. The respondent thereupon applied to the Collector Delhi complaining that the house had not been de-requisitioned as promised earlier, more so when some of the persons to whom portions in the house had been allotted were very quarrelsome and did not allow the respondent even to use the common kitchen, bath-room and latrine. No action was however taken in response to that representation.

(5) The respondent thereupon filed a petition therein she urged inter-alia that the purpose for which the premises were de-requisitioned having come to an end the requisition could not be allowed to continue any longer and refusal to de-requisition was in the circumstances contrary to law. The appellants who were respondents in the petition however contended that the requisition under the old Act should be deemed to be a de-requisition u/s 3 of the Requisition and Acquisition of Immovable Property Act, 1952 which will hereafter be described as the new Act and since after the coming into force of the new Act for a public purpose the requisition continued to be a valid one under the new Act.

(6) The learned Single Judge came to the conclusion that the premises requisitioned for the purpose of the Central Relief Committee of the All-India Congress Committee could not be said to have been retained after the winding up of the said Relief Committee. On the other hand evidence had been placed on record when certain individuals who were admitted to be in possession of the premises were not even Government servants it was clear that the purpose for which the property had been requisitioned and used had ceased to exist. In that view of the matter the respondent's application was allowed.

(7) At the hearing of the appeal, counsel for the appellants submitted that after the conclusion of arguments in the case and after a part of the order had been dictated the counsel for the respondent Smt. Satwant Kaur filed an application praying that certain facts detailed in the application be taken into consideration at the time of deciding the main petition. This the counsel urged, was irregular and improper. The respondent was no doubt given an opportunity to make a reply but the learned Single Judge held that the following facts had been brought on record which had either been admitted or not controverted:

(A)"The Central Relief Committees of the All India Congress Committee informed the Collector that it no longer needed the premises and the same should be de-requisitioned. This was done some where in August, 1951. (b) The Collector of Delhi appears to have passed an order of de-requisition, but some private persons prevailed upon him to stay his hands and allot the premises to them. (c) The premises were allotted to four private persons by the Collector, Delhi in 1951 or early 1952. (d) Subsequently these premises were allotted to some Government Servants after the Act of 1952 had come into force and only after the said private persons or some of them vacate the premises except that Shri L.C. Kirplani said to be a Government servant was allotted a portion of the accommodation on 24.2.1951. It was not brought on record as to when the said Mr. Kriplani vacated and which was that portion. (e) Even later on some private persons not in Government service such as Shri K.L. Dua of the Red Cross have been allotted the premises."

It was argued that the facts stated above had actually been controverted and the learned Single Judge was not justified in holding that those facts had been admitted or were not controverted. We were therefore taken through the affidavit to the contrary by Shri B.N. Tandon, Collector Delhi and the application filed by the respondent on 30th May, 1969. On a perusal of the affidavit of Shri B.N. Tandon and the application filed by the respondent we are of the opinion that the contention urged by the appellants' counsel is not correct.

(8) The facts established on the record leave little room for doubt that after the work of the Central Relief Committee was wound up the collector had decided to de-requisition the premises but he stayed his hand because in 1951 or early 1952 the premises were actually allotted to Professor Ishwar Singh, Shri H L. Gulati, Shri Balwant Rai Advocate and Shri Khaana. All these persons were not Government servants at all. Later, an allotment was made to some Government servants when the Act of 1952 came into force but in the end Shri K. L. Dua of the Red Cross, was allotted the premises and it is the case of the Collector of Delhi himself that not being a Government servant, he was not entitled to the allotment of the premises and actually an action for his eviction was instituted by the Estate Officer concerned. It was however not stated by the Collector as to when the allotment of the premises was made to Shri K. L. Dua, but it was conceded by the learned counsel for the appellants that Shri K. L. Dua was actually in possession of the premises when the present petition was filed by the respondent and that was in March, 1968. If Shri K.L. Dua, was ultimately evicted from the premises it must be long after 10th day of July, 1969 when the affidavit of Shri B. N. Tandon, Collector of Delhi was filed and it was averred therein that eviction proceedings against him had been concluded and he was being evicted according to the provisions of law.

(9) It will be seen that in the old Act (Section 2(e)) the expression "public purpose" was defined as meaning "any purpose" which is so declared by rules made under that Act. On 31st December, 1947 the Central Government framed

rules under that Act. Rule 2(c) defined "public purpose" as follows :-

"(C)"public purpose" shall include a purpose connected with- (i) the proper and efficient functioning of the Government of India; (ii) maintenance of public safety, (iii) maintenance of public order, (iv) maintenance of supplies and services essential to the life of the community, (v) the functioning of any social institution, such as school, orphanage or hospital, (vi) the defense of India, (vii) the accommodation of representatives of Foreign Governments, and (viii) provision for suitable alternative accommodation for a landlord or tenant under the proviso to sub-section (4) of section 3 of the Act."

According to that rule "public purpose" was not necessarily connected with the Central Government or State Government and under sub-clause (v) "the functioning of any social institution, such as school, orphanage or hospital" was also included in that term. But when the new Act came into force on 15th March, 1952, section 3 restricted the provisions of requisitioning to certain purposes and those purposes were the purposes of the Union. Sub-section (1) of section 3 provided that where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose being a purpose of the Union, and that the said property should be requisitioned, the competent authority may do certain things under that section. Under the new Act Therefore, it was necessary that the requisition of the property should be confined only to a public purpose which must be a purpose of the Union and the determination of the "public purpose" depends upon the opinion that may be formed for that purpose. Whether the determination of the public purpose is an administrative and not a judicial act, does not concern us here. All we have to see is whether the competent authority was of the opinion that any property was needed or was likely to be needed for any public purpose then that purpose must be a purpose of the Union.

(10) Counsel for the respondent argued that when the new Act came into force, the persons who were not Government servants were obviously not entitled to its allotment, but the position is that even after the new Act came into force the allotment was made in favor of Shri K. L. Dua who was admittedly not a Government servant. Counsel argued that in 1951 and 1952, Government of Part C States Act (49 of 1951) was in force and according to a decision of the Supreme Court in *Satya Dev Bushahri v. Padam Dev*, Article 239 of the Constitution which conferred authority on the President to administer Part C States (and Delhi was at that time regarded under the Constitution as a Part C State) did not have the effect of converting such a state into the Central Government. It was Therefore held that "under Article 239, the President occupies in regard to Part C States, a position analogous to that of a Governor in Part A States and of a Rajpramukh in Part B States. Though Part C states are centrally administered under the provisions of Article 239 they do not cease to be states and become merged with the Central Government.

(11) The decision in *Satya Dev Bushahri* was reviewed by the Supreme Court and

the second judgment appears at page 561 of the report. But this particular aspect of the case, it appears to us, remained un-disturbed although it was said that in view of Section 3(8) of the General Clauses Act, a contract with Chief Commissioner in a part C State is a contract with the Central Government. But that would not make any difference to the position enunciated in the earlier judgment.

(12) In *The State of Madhya Pradesh v. Shri Moula Bux*, the Supreme Court was concerned with the State of Vindhya Pradesh which later substituted by the State of Madhya Pradesh and it was held that the State of Vindhya Pradesh was the proper defendant to be sued and that the suit was properly filed. M. Hidayatullah J. (as he then was) while speaking for the Court observed that Part C States had a separate existence and were not merged with the Central Government .

(13) In *H. L. Rodhey v. Delhi Administration*, a Bench of this Court consisting of Hardy and Deshpande JJ. referred to both these decisions and it was observed that both these decisions were concerned with Part C States and not Union Territories. Both these decision Therefore did not apply to Union Territories. In the present case, however, we are not concerned with a Union Territory because the Act which made Delhi into a Union Territory came into force later. We are only trying to see what the position was when Delhi was a Part C State and we have no doubt that in the year 1952 when the new Act came into force Delhi was a Part C State and as such the cases of *Satya Dev Bushahri v. Padam Dev and others* and *The State of Madhya Pradesh v. Shri Moula Bux* would govern the position. If Delhi was Part C State and was not merged in the Central Government, the purpose of requisitioning under the Act could only be the purpose of the Union and Therefore any allotment made to a person who was not concerned with the Union was clearly invalid and illegal.

(14) Counsel for the respondent also drew our attention to decision of the Supreme Court in *The Union of India v. Ram Kanwar*. The Supreme Court in that case was concerned with the provisions of Rule 75-A of the defense of India Rules, the old Act and the new Act. It was urged that if the requisition originally made was for purposes mentioned in Rule 75-A of the Rules and continued u/s 3 of the old Act only for the said purposes then u/s 3 of the new Act the requisition of the property made for the said purposes would be deemed to be a requisition for a public purpose being a purpose of the Union.

(15) It was the common case of the parties that the fiction created by Section 24(2) of the new Act would render the acquisition made under the old Act as a requisition under the new Act. This however did not mean that the fiction would validate an illegal act of the Government. If the requisition originally made was for a particular purpose which was a public purpose, it continued u/s 24(2) of the new Act to be a requisition u/s 3 of the said Act. The validity of the requisition could be judged on the basis of the earlier statute as to whether it was a purpose recognised by the earlier law as a public purpose. As the premises in question were being used after the coming into force of the new Act for a purpose other

than that for which they were originally requisitioned it could not be said that they were being used for a public purpose being a purpose of the Union. The respondent was Therefore entitled to be put in possession thereof.

(16) We are Therefore in agreement with the learned Single Judge that the premises requisitioned for the purpose of the Central Relief Committee of All India Congress Committee could not be said to have been retained for the purpose for which it was requisitioned after the winding up of the said Relief Committee. The occupation of certain individuals who it was admitted were in possession of the premises and who were not even Government servants made it clear that the purpose for which the property was requisitioned and used had ceased to exist. The Central Government under the circumstances, was bound under the provisions of sub-section (1) of Section 6 of the new Act to release the property from requisition.

(17) The result is that the appeal fails and is dismissed, but in the circumstances there will be no order as to costs in this appeal.