(2012) 11 DEL CK 0289

In the Delhi High Court

Case No : LPA No. 731 of 2012

The Gondals Press — APPELLANT

Vs

Punjab National Bank and Another — RESPONDENT

Date of Decision : 05-11-2012

Acts Referred:

Delhi Rent Control Act, 1958 — Section 14(1)(k)
Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 2(e)

Citation : (2012) 11 DEL CK 0289

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

Bench : Division Bench

Advocate : Ajay Kapur with Mr. Amitabh Narayan, for the Appellant; Rajat Sharma, for R-4, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—This intra-court appeal impugns the order dated 31.10.2012 of the learned Single Judge of dismissal of W.P.(C) No. 3721/2012 preferred by the appellant. The said writ petition was filed impugning the order dated 31.05.2012 of the District Judge exercising powers as an Appellate Authority under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (PP Act) dismissing the appeal preferred by the appellant against the order dated 27.03.2012 of the Estate Officer of the respondent Bank of eviction of the appellant from an area comprising of 2223 sq. ft. on the Ground and Mezzanine Floor of property No. 12/90, Connaught Circus, New Delhi. The challenge by the appellant is threefold. Firstly, it is contended that prior to the respondent Bank acquiring the said property in an auction sale, the same had been re-entered by the Land & Development Office (L&DO) of the Government of India being the lessor of the land underneath the property and thus no title was acquired by the respondent Bank and the said property was not "public premises" within the meaning of Section 2(e) of the PP Act, for the Estate Officer of the respondent Bank to pass an order with respect thereto. Secondly, it is contended that no bona fide requirement, on which ground the appellant was sought to be evicted, had been established and rather it stood admitted that the eviction of the appellant was with profit motive. Lastly, it is contended that no proper opportunity to lead evidence was given to the appellant by the Estate Officer of the respondent Bank.

2. As far as the first of the challenge aforesaid is concerned, the admitted position is that when the respondent Bank, after bidding for the said property in an auction, had applied to the Court for confirmation of the sale in its favour, the L&DO had objected on the ground that the property having already been re-entered, no title could be conveyed to the respondent Bank. The said application of the L&DO was rejected giving liberty to the L&DO to seek its remedies. Not only so, the Supreme Court in Shanti Sharma and Others Vs. Ved Prabha and Others, has held that re-entry effected by the L&DO of lease with respect to the land underneath the property does not prevent the lessee of the said land from seeking eviction of his/her/its tenant in the property constructed on the said land, as owner thereof. It was held that unless the L&DO, pursuant to the said re-entry, repossess the property, the lessee of the land is fully entitled to deal with the tenants inducted in the property constructed over the said land as owner/ landlord and the tenants of the lessee cannot challenge the title of their landlord. Upon the senior counsel for the appellant being confronted with the said judgment, he had no reply thereto, save for referring to Bharat Sales Ltd. and Another Vs. Smt. Lakshmi Devi and Others, He contends that the Supreme Court in the said case, in a case of re-entry by the L&DO, had directed the possession of the premises to be delivered by the tenant to the L&DO and not to its landlord. We have, on demur, asked the senior counsel for the appellant whether the appellant is willing to hand over possession to the L&DO, if not to the respondent Bank. The answer is in the negative. The said conduct of the appellant demonstrates the mala fides of the appellant in seeking to retain possession of a valuable property in the prime central business district of the capital city of Delhi on some pretext or the other. The judgment in Bharat Sales Ltd. supra, turns on its own facts. That was a case u/s 14(1)(k) of the Delhi Rent Control Act, 1958 and in which proceedings, the L&DO was also a party. Such is not the case here. On the contrary, the plea of the L&DO has already been negatived while confirming the sale in favour of the respondent Bank. The L&DO having not taken any steps till now for repossessing the property, the appellant cannot wriggle out of eviction order if otherwise found to be validly passed by setting up a title in the L&DO. Moreover, the respondent is a nationalized Bank and the L&DO has a policy of revoking the re-entry upon the reasons on account whereof re-entry was effected being remedied and the charges therefor being paid. There is nothing to suggest that the said charges cannot be recovered from the respondent Bank. We therefore do not find any merit in the said ground of challenge.

3. As far as the second ground aforesaid of challenge is concerned, the finding of the premises being required by the respondent Bank is a finding of fact, not interferable in writ jurisdiction much less in an appeal arising therefrom. The

appellant admittedly is an old tenant in the premises at a meager rent. this Court in Iyer & Son Pvt. Ltd. Vs. LIC of India (2007) X AD (Delhi) 643 affirmed recently in Life Insurance Corporation of India Vs. Damyanti Verma (Decd.) through L.Rs., and in Indian Instt. of Public Opinion Pvt. Ltd., Ahuja Refrigeration P. Ltd. and P.P. Chaudhary Vs. Insurance Corporation of India, has held a Public Sector Bank as the respondent to be fully justified in endeavouring to earn maximum out of its properties. No case thus for interference with the findings of the Estate Officer affirmed by the District Judge, of the requirement of the premises by the respondent Bank for its own use is made out. We may also notice that there is no challenge to the fact that the lease of the appellant of the said premises stands validly determined and whereafter the appellant is an unauthorized occupant of the said premises and is not entitled to retain possession thereof.

4. As far as the last challenge is concerned, the learned District Judge has negatived the same observing that the very fact that the proceedings remained pending before the Estate Officer for a period of 28 years is sufficient to negative any inference of the appellant having been deprived of a proper opportunity. We find the said reasoning to be perfectly in order. Even otherwise, the appellant seeks opportunity to establish the title of the property of the L&DO and which as aforesaid is impermissible. We therefore do not find any merit in this appeal which is dismissed. Though the learned Single Judge, finding the writ petition in abuse of the process of the Court imposed cost of Rs. 50,000/- on the appellant, we while not interfering with the said direction, refrain ourselves from imposing any further cost.