
(1987) 02 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1988 of 1978

Union of India and another	Vs	APPELLANT
District Judge, Amritsar and another		RESPONDENT

Date of Decision : 02-02-1987

Acts Referred:

Citation : (1987) 1 CurLJ 771 : (1987) PLJ 120 : (1987) RRR 17

Hon'ble Judges : D.V.Sehgal, J

Judgement

D.V. Sehgal, J.—A prayer is made through this writ petition for issuance of a writ of certiorari quashing the order dated November 9, 1977 passed by the learned District Judge, Amritsar, allowing in part an appeal filed by respondent No. 2 in exercise of the powers under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, (for short the 'Act').

2. The facts in brief are that a notice under subsection (2) of Section 7 of the Act was served on respondent No. 2 on 27.7.1974 by the Military Estate Officer, Jalandhar Circle, Jalandhar Cantt. calling upon him to show cause why an order requiring him to pay damages amounting to Rs. 34,320/ be not made. The notice was issued with regard to an area of 6487 acres of land in the Camping ground at Gharinda, District Amritsar, which was said to be in the unauthorised occupation of respondent No. 2. The damages so claimed were for the period from 1.6.1970 to 31.5.1974 at the rate of Rs 8580/ per annum. After receiving objections of respondent No.2 and evidence led by the parties, the Estate Officer passed an order dated September 30, 1976 directing respondent No.2 to pay the said sum of Rs. 34, 320/ which was assessed as damages in three equal monthly instalments of Rs. 14,440/ commencing from October 30, 1976. Respondent No.2 filed an appeal before the learned District Judge, Amritsar under Section 9 of the Act and the impugned order Annexure P.1 was passed in the said appeal. The learned District Judge held that respondent No.2 is liable for damages for a period of three years only prior to prior to 27.7.1974 when the proceedings under subsection (2) of Section 7 of the Act were initiated against him and the

damages assessed prior to the aforesaid period of three years were beyond limitation and were, therefore, not recoverable.

3. Respondent No.2 opposed the writ petition and filed his written statement. He has supported the order Annexure P.1 passed by the learned District Judge. Besides, he has raised preliminary objections to the effect that the Estate Officer, Jalandhar Cantt, had no jurisdiction to issue him the notice under Section 7(2) of the Act and to assess the damages as he was not vested with the power to do so.

4. I have heard the learned counsel for the parties. As regards the preliminary objection raised by respondent No. 2, I find that the same has Annexure P1 and has been rightly repelled. In view of provisions of Section 20 of the Act read with Section 24 of the General Clauses Act, 1897, the notification vesting Military Estate Officer with the powers of an Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, which was repealed by the Act would continue in force under the corresponding provisions of the Act. Therefore, this submission has no force.

5. Now coming to the decision of the learned District Judge, I find that the same cannot be sustained. He relied on *New Delhi Municipal Committee v. Kalu Ram and another*, 1984 R.R.R. 358 : A.I.R. 1976 S.C. 1637, to conclude that the damages beyond the period of three years prior to the date of initiation of the proceedings under Section 7 of the Act were beyond limitation and, therefore the petitioner had no right to recover the same. It was held therein that Section 7 of the Act only provides a special procedure for realisation of rent in arrears and does not constitute a source or foundation of a right to claim debt otherwise time barred. The final Court was dealing with a claim for rent made under Section 7 of the Act by New Delhi Municipal Committee. Of course, in the case of the Municipal Committee, the period of limitation for recovery of the arrears of rent is three years.

6. However, in the case of a suit by or on behalf of the Central Government for recovery of rent or damages the period of limitation is not confined to three years. In fact Article 112 of the Schedule to the Limitation Act 1963 provides as under :

Description of suit

Period of limitation

Time from which period begins to run

112. Any suit (except a suit before the Supreme Court in the exercise of its original jurisdiction) by or on behalf of the Central Government or any State Government, including the Government of the State of Jammu and Kashmir.

Thirty years

When the period of limitation would begin to run under this Act against a like suit by a private person.

The damages being recovered in the present case by the Estate Officer were on behalf of the Central Government. Therefore, under Section 7 of the Act damages for a period of 30 years prior to the initiation of proceedings under the said provision could be claimed and recovered.

7. I therefore, allow this writ petition, quash the order dated November 9, 1979, passed by respondent No. 1 holding that respondent No.2 is liable for damages for a period of three years prior to 22.7.1974 and accepting his appeal to that extent. The order of the Estate Officer dated September 30, 1976 requiring respondent No.2 to pay a sum of Rs. 34,320/ assessed as damages is maintained. There shall, however, be no order as to costs.