

(2020) 02 RAJ CK 0350

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 14003 Of 2019, 45 Of 2020

Union Of India And Ors

APPELLANT

Vs

Pushpa Devi And Ors

RESPONDENT

Date of Decision : 20-02-2020

Acts Referred:

Citation : (2020) 02 RAJ CK 0350

Hon'ble Judges : Sangeet Lodha, J;Dr. Pushpendra Singh Bhati, J

Bench : Division Bench

Advocate : B.S. Sandhu, M.S. Champawat, Rajvendra Sarswat

Final Decision : Disposed Of

Judgement

Dr. Pushpendra Singh Bhati, J

1. This special appeal has been preferred claiming the following reliefs:

It is, therefore, most respectfully prayed that the present Special Appeal may kindly be allowed and the impugned order dated 26.09.2019 passed

by the learned Single Judge may kindly be declared illegal and be quashed and set aside and the writ petition filed by the respondent may kindly be

dismissed with cost.

Any other appropriate order or relief which this Hon'ble Court may deem just and proper may also kindly be passed in favour of the humble

appellants.

2. While adjudicating the special appeal, this Court felt it appropriate to order listing of the writ petition, wherein the impugned order has been passed,

today itself. Hence, the said writ petition is being listed today alongwith the special appeal before this Court.

3. With the consent of learned counsel for the parties, the special appeal as well as writ petition have been heard together and are being decided by this common order.

4. Brief facts of this case, as noticed by this Court, are that Late Radheshyam Singh, the husband of the respondent/writ petitioner, was serving in BSF, and died during the course of the duty, and the respondent/writ petitioner being widow, was granted accommodation in the widow category, and was accordingly, allotted Ashraya Awas Type-II/01 vide Headquarter order dated 08.01.2016 for a period of seven years.

5. As per the pleaded case of the appellants, the allotment was contrary to the policy, as according to the existing policy, such allotment was to be made only for a period of eleven months, with discretion of extension upto seven years, on need basis. The allotment order was thus cancelled on 02.03.2019, and the respondent/writ petitioner was ordered to vacate the Ashraya Awas in question on or before 31.03.2019. Thereafter, the respondent/writ petitioner preferred an application 01.04.2019 for extension of time for a period of two years, but the same was rejected by the appellants vide letter dated 05.08.2019, whereby she was directed to vacate the allotted Ashraya Awas on or before 31.08.2019.

6. The respondent, challenging the aforesaid action of the appellants, preferred the above-numbered S.B. Civil Writ Petition No. 14003/2019, wherein following order dated 26.09.2019 was passed by the learned Single Judge:
â??Heard.

Admit. Issue notice.

Mr. B. S. Sandhu, learned counsel accepts notice on behalf of the respondents.

Meanwhile, effect and operation of the order dated 02.03.2019 (Annex.1) shall remain stayed.

It is further made clear that the petitioner shall not be asked to hand over the possession of the quarter, she has been allotted, prior to the expiry of term of seven years, as mentioned in the order dated 08.01.2016. This interim order shall not operate beyond the term of the allotment letter dated 08.01.2016, unless ordered otherwise.

Learned counsel for the petitioner informs that for the period interregnum the petitioner is occupying the quarter in question, for which the respondents

are claiming for demurrage/penal charges.

The respondents shall not recover demurrage/penal charges for the quarter in question, because effect and operation of the order dated 02.03.2019,

has been kept in abeyance by this Court.â??

The special appeal above-numbered is thus against the aforequoted interim order.

7. This Court takes note of the fact that the son of the respondent/writ petitioner has already been given compassionate appointment with a condition

to maintain the respondent/dependant. This Court also takes note of the fact that there are other widows, who are in queue for Ashraya Awas in

question, and are on weaker footing than the present respondent/ writ petitioner.

8. After making submissions for some time on merits, both the parties have agreed to give up the case on merits and they have chosen to arrive at a

common consensus that the Ashraya Awas in question shall be vacated by the respondent/writ petitioner on or before 31.08.2020.

9. Since learned counsel for the respondent/writ petitioner has categorically undertaken before this Court that the respondent/writ petitioner shall

vacate the Ashraya Awas in question on or before 31.08.2020 and since the appellants have also consented to permit the respondent/writ petitioner to

remain in the premises in question till 31.08.2020 as a benevolent gesture, therefore, nothing survives to be adjudicated on merits both in the special

appeal as well as the writ petition.

10. At this juncture, learned counsel for the appellants assures this Court that no adverse action shall be taken by the appellants against son of the

respondent/writ petitioner, in lieu of occupying the Ashraya Awas in question till 31.08.2020, and particularly, in relation to recovery of the House Rent

Allowance from the son of the respondent/writ petitioner.

11. In view of the above, the present appeal as well as writ petition stand disposed of, while directing the parties to strictly abide by the consensus

arrived between them before this Court. All pending applications also stand disposed of.

12. Let copy of this order be placed in both the files.