THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 08.01.2015

+ W.P.(C) No. 3402/2014 & CM No. 7007/2014

SRISHTI PANDEY ..... Petitioner

versus

IDBI BANK LTD & ORS. ..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr K. Rajendran and Mr S. C. Singh.

For the Respondents : Mr Sanjay Bhatt and Mr Abhishek Anand.

CORAM:-

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J (ORAL)

1. The petitioner impugns an order dated 13.01.2014 passed in appeal by the District and Sessions Judge under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereafter the 'Act').

2. The petitioner was allotted a residential unit being flat no. 352-D, Pocket-2, Mayur Vihar Phase-I, New Delhi-110091 (hereinafter referred to as the 'said premises') by virtue of being an employee of Industrial Development Bank of India (arrayed as respondent no.2.) The petitioner was removed from the services pursuant to the disciplinary action taken against her for alleged misuse of the said premises and for being unauthorisedly absent from service. After the removal of the petitioner

from services, a Show Cause Notice was issued on 25.11.2013 calling upon the petitioner to show cause why she should not be evicted from the said premises. Subsequently, on 12.12.2013, the Estate Officer passed an order under Section 5 of the Act for eviction of the petitioner from the said premises as the petitioner was an unauthorized occupant.

3. According to the petitioner, the said eviction order dated 12.12.2013 was without jurisdiction as it is contended that the Estate Officer in question had not been appointed in accordance with law. The notification for appointment of the Estate Officer had been issued on 24.07.1980 and at the material time Industrial Development Bank of India was a statutory corporation. Subsequently, the Industrial Development Bank of India Act, 1964, the statute under which the Industrial Development Bank of India was established, was repealed by virtue of Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2003 and the undertaking of Industrial Development Bank of India stood vested with Industrial Development Bank of India Ltd.; an entity registered under the Companies Act, 1956. Thereafter, Industrial Development Bank of India Ltd. merged with IDBI Bank Ltd. According to the petitioner, the notification for appointment of the Estate Officer issued on 24.07.1980 would not continue to hold good in view of the aforesaid subsequent changes.

4. According to the respondent, the Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2003 expressly provided for continuity of the organization and this would also imply that the appointments made prior to the said Repeal Act would continue to be effective. The Estate Officer considered the above challenge - which was

the only ground urged by the petitioner before the Estate Officer - and rejected the same, *inter alia,* holding as under:-

> "The only contention raised by Maj. Shivender Kumar Pandey during the hearing was that the Gazette Notification dated July 24, 1980 relating to appointment of Estate Officer pertains to Industrial Development Bank of India and is not applicable to IDBI Bank Limited. The undertaking of Industrial Development Bank of India was transferred to Industrial Development Bank of India Limited (name changed to 'IDBI Bank Limited') by the. Industrial Development Bank (Transfer of undertaking and Repeal) Act, 2003. As per section 13 of the above Repeal Act, in every Act, rule, regulation or notification in force on the appointed day for the words "Industrial Development Bank of India" wherever they occur, the words "Industrial Development Bank of India Limited" shall be substituted. Further, as per section 6, all fiscal and other concessions, licenses benefits, privileges and exemptions granted to Industrial Development Bank of India, in connection with the affairs and business of Industrial Development Bank of India under any law for the time being in force shall be deemed to have been granted to Industrial Development Bank of India Limited. The name of Industrial Development Bank of India Limited has subsequently been changed to IDBI Bank Ltd. In view of the specific provisions in the Repeal Act, the notification dated July 24, 1980 shall be deemed to be applicable to IDBI Bank Ltd. Hence, there is no merit in the contention of Maj. Shivender Kumar Pandey."

5. Aggrieved by the said eviction order, the petitioner preferred an appeal under Section 9 of the Act. The Court accepted the above finding and rejected the appeal by the impugned order dated 13.01.2014.

6. Thereafter, the order passed by the Estate Officer for eviction of the petitioner was executed on 27.01.2014.

7. The petitioner has also challenged execution of the eviction order as being illegal on the ground that the mandatory time of 15 days was not granted to the petitioner and further the belongings of the petitioner at the said premises were unauthorisedly removed contrary to Section 6 of the Act.

8. I have heard the learned counsel for the parties.

9. The limited grounds urged by the petitioner are that the order of the Estate Officer was without jurisdiction as it is contended that the appointment of Estate Officer made in 1980 would not hold good for him to continue to act as the Estate Officer for IDBI Bank Ltd. It is further urged that the execution of the eviction order was illegal as the eviction action was done prior to the mandatory period of 15 days as specified under Section 5 of the Act. The petitioner also contends that removal of petitioner's belongings from the said premises without notice, falls foul of Section 6 of the Act.

10. Section 5 of the Act provides for eviction of unauthorized occupants and Section 5(2) expressly provides that if the eviction order passed by the Estate Officer is not complied on or before the date specified in the order or within 15 days of the date of publication, whichever is later, the same would be forcibly enforced. In the present case, the eviction order was passed on 12.12.2013 and was admittedly enforced on 27.01.2014. In the circumstances, I find no merit in the petitioner's contention that the execution was contrary to Section 5(2) of the Act.

11. The next issue to be addressed is whether the removal of petitioner's belongings was contrary to Section 6 of the Act, which reads as under:-

> "6. **Disposal of property left on public premises by unauthorised occupants**.(1) Where any persons have been evicted from any public premises under section 5, [or where any building or other work has been demolished under section 5B] the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises.
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> (1A) Where any goods, materials, cattle or other animal have been removed from any public premises under section 5A, the estate officer may, after giving fourteen days' notice to the persons owning such goods, materials, cattle or other animal and after publishing the notice in at least one newspaper having circulation in the locality, dispose of, by public auction, such goods, materials, cattle or other animal.
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> (1B) Notwithstanding anything contained in sub-sections (1) and (1A), the giving or publication of any notice referred to therein shall not be necessary in respect of any property which is subject to speedy and natural decay, and the estate officer may, after recording such evidence as he may think fit, cause such property to be sold or otherwise disposed of in such manner as he may think fit.
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> (2) Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the Central Government or the [statutory authority on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the estate officer to be entitled o the same:
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> Provided that where the estate officer is unable to decide as to the person or persons or whom the balance of the amount

> is payable or as to the apportionment of the same, he may refer such dispute to the civil court of competent jurisdiction and the decision of the court thereon shall be final.
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> (2A) The expression "costs", referred to in sub-section (2), shall include the cost of removal recoverable under section 5A and the cost of demolition recoverable under; section 5B."

12. Admittedly, the petitioner's belonging were removed from the said premises on 27.01.2014 and were placed by the respondents in another flat within the campus. The learned counsel for the respondents contend that in the circumstances, the petitioner's contention that the petitioner's belongings had been removed in violation of Section 6 of the Act, prior to expiry of 14 days, is erroneous. I am unable to accept the respondents contention as it is apparent from the plain reading of Section 6 of the Act that unauthorized occupants would be given 14 days time to remove his/her belongings after the unauthorized occupant has been dispossessed of the public premises. Thus, it was incumbent upon the respondents to give sufficient time before the petitioner's belonging were removed from the said premises. This, admittedly, was not done.

13. Having stated above, I am unable to readily accept that any compensation is payable to the petitioner. There is no question of any compensation being paid to the petitioner unless the petitioner is able to establish that the removal of petitioner's belongings without giving 14 days notice has caused any loss, injury or damage to the petitioner. The petitioner has neither indicted nor established that any loss was caused for want of 14 days notice as mandated under Section 6 of the Act.

14. I also find no merit in the petitioner's contention that the Gazette Notification for appointment of the Estate Officer made on 24.07.1980 would not extend beyond 2003. It cannot be disputed that the undertaking of Industrial Development Bank of India had remained the same even though the Industrial Development Bank of India Act, 1964 had been repealed and the Industrial Development Bank of India had thereafter, been converted to a company. There is no allegation that the services of any of its employees had been terminated or disrupted on account of the change in the corporate form. By virtue of Section 13 of the Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2003 the name of Industrial Development Bank of India Limited was substituted in place of Industrial Development Bank of India *"in every Act, rule, regulation or notification in force on the appointed day"*. This would also include the notification dated 24.07.1980 regarding appointment of an Estate Officer for the purposes of the Act.

15. In the circumstances, I find no reason to interfere with finding of either the Estate Officer or the District Judge. The petition and pending application are, accordingly, dismissed.

VIBHU BAKHRU, J

JANUARY 08, 2015
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