

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Pronounced on: 27th March, 2017

+ LPA 382/2016 & CM No.22838/2016 (*stay*)

MOHIT SINGH JADHAV Appellant
Through: Petitioner in person with Ms.Sunanda
Ayare, Adv.

Versus

DELHI TRANSCO LTD & ORS Respondent
Through: Mr.S.K. Chaturvedi with Mr.Sidharth
Shanker, Advs. for DTL.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

: **MS. G. ROHINI, CHIEF JUSTICE**

1. This appeal is preferred against the order of the learned Single Judge dated 11.05.2016 in W.P.(C) No.2918/2012. The sole respondent in the writ petition is the appellant before us.
2. The said writ petition was filed by the respondents herein with a prayer to set aside the order dated 21.02.2012 passed by the District Judge and Additional Sessions Judge-in-Charge, South District, Saket, New Delhi on an appeal under Section 9 of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'Public Premises Act').

3. By the order under appeal dated 11.05.2016, the learned Single Judge allowed the writ petition filed by Delhi Transco Limited and others (the Respondents herein) and set aside the order of the Ld District Judge dated 21.02.2012 and restored the eviction order dated 21.07.2011 of the Estate Officer.

4. We have heard the appellant who appeared in person as well as the learned counsel appearing for the respondents.

5. As is evident from the facts borne out of the record, the appellant while in service with Delhi Transco Limited was allotted a Type II quarter. However, he suffered the penalty of dismissal from service vide order dated 18.07.2008. Since he failed to vacate the quarter in his occupation, Delhi Transco Limited initiated eviction proceedings under the Public Premises Act which was allowed by the Estate Officer and eviction was ordered on 21.07.2011. Against the said order, the appellant herein preferred an appeal being PPA No.17/2011 which was allowed by the Ld District Judge by order dated 21.02.2012 on the ground that the Estate Officer had no jurisdiction to conduct the eviction proceedings in view of the notification dated 20.11.2009. The Ld District Judge was of the view that in the light of the said notification, the Sub Divisional Magistrate within whose territorial jurisdiction the premises in question is located alone was competent to act as the Estate Officer to conduct the eviction proceedings. Accordingly, the eviction order was set aside and Delhi Transco Limited was granted liberty to refer the matter for eviction to the concerned Sub Divisional Magistrate.

6. However, the learned Single Judge found that in terms of the proviso to Section 3(a) of the Public Premises Act and the clarification dated 03.10.2012 issued by the Additional Secretary (Power), Delhi Transco Limited is competent to appoint its own Estate Officer. Accordingly, it was held that the Estate Officer who conducted the eviction proceedings and passed the eviction order dated 21.07.2011 was competent to conduct the proceedings and pass the order of eviction. The learned Single Judge also held that the notification dated 20.11.2009 is not applicable to Delhi Transco Limited which is a wholly Government owned company established under the Delhi Electricity Reforms Act, 2000 and the Rules made thereunder.

7. Having perused the notification dated 20.11.2009 as well as the relevant provisions of the Delhi Electricity Reforms Act, 2000 together with the clarification dated 03.10.2012 issued by the Additional Secretary (Power), we entirely agree with the conclusion of the learned Single Judge that the reliance upon the notification dated 20.11.2009 by the Ld District Judge was misplaced.

8. We have also taken note of the fact that the appellant was dismissed from the service of Delhi Transco Limited in the year 2008 and the appeal against the order of dismissal was also dismissed by order dated 03.12.2008. Though it is stated that the appellant challenged the order of dismissal before the Labour Court, Karkardooma and the proceedings are still pending, in our considered opinion, the same does not make any difference. As of today, the order of dismissal from service stands good and therefore the appellant has no right to continue in occupation of the public premises.

9. For the aforesaid reasons, we do not find any justifiable reason to interfere with the order under appeal.

10. Accordingly, the appeal is dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

MARCH 27, 2017

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