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

+ **W.P.(C) 3912/2019**

SH. VIJAY KUMAR GUPTA AND ORS. Petitioners

Through: Mr Sunil Goel and Ms Supreet
Bimbra and Mr Mayank Goel,
Advocates.

versus

SMT. RADHA AGGARWAL Respondent

Through: Mr Parvinder Chauhan, Standing
Counsel with Mr Nitin Jain,
Advocates for DUSIB.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **15.04.2019**

CM No.17722/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 3912/2019 & CM No.17723/2019

2. The petitioners have filed the present petitions, *inter alia*, impugning orders dated 24.05.2018 and orders dated 19.11.2018 passed by the Competent Authority under the Slum Improvement and Clearance Act, 1956 (hereafter 'the Slum Act'). The petitioners had filed an application seeking cross-examination of respondent no.1 in respect of an affidavit furnished by her in support of her application under Section 19 of the Slum Act, seeking permission of to initiate proceedings to evict the petitioners from the first floor of the premises bearing 1989-92, Katra Lachhu Singh, Fountain, Delhi

- 110006. The said application was rejected by an order dated 24.05.2018, on the ground that the petitioner had not specified the averments, which were sought to be challenged by the petitioner.

3. This Court has also perused the application filed by the petitioner and the same is bereft of any particulars.

4. The procedure to be followed by the Competent Authority while deciding an application under Section 19 of the Slum Act is summary in nature and it is not necessary for the Competent Authority to accept a request for cross-examination in all cases. The Competent Authority is required to examine whether cross-examination in a particular case is necessary before acceding to the such a request since, in the present case, the petitioners have not specified any particular material, which would persuade the Competent Authority to accede to their request.

5. The petitioners had, thereafter, filed a review petition seeking a review of the said order, which was also rejected by an order dated 19.11.2018 on the ground that the Competent Authority did not have the power to review its decision.

6. Since this Court is of the view that there is no infirmity in the order dated 24.05.2018 passed by the Competent Authority there is no necessity to examine the question whether the Competent Authority has power to review its own decision.

7. A plain reading of Section 19 of the Slum Act indicates that scope of proceedings before the Competent Authority is limited. Section 19(4) of the Slum Act sets out the factors which are required to be evaluated by the Competent Authority for considering whether to grant or to refuse the permission under Section 19 of the Slum Act. Section 19(4) of the Slum Act,

is set out below :-

“19. Proceedings for eviction of tenants not to be taken without permission of the competent authority. –

(4) In granting or refusing to grant the permission under sub-section (3), the competent authority shall take into account the following factors, namely:—

(a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted;

(b) whether the eviction is in the interest of improvement and clearance of the slum areas;

(c) such other factors, if any, as may be prescribed.”

8. It is seen from the above that one of the principal factors to be evaluated is whether the tenants have the means to arrange for alternative accommodation, if evicted. In the present case, respondent no.1 had alleged that the petitioners were wealthy and were getting more than ₹6 Lakh per month from the suit premises. Respondent no.1 has also alleged that the petitioner owns luxurious items such as jewellery, cars and other assets. The petitioner on the other hand has denied the said averment and had also sought to produce their income tax returns.

9. In view of the said rival contentions, the Competent Authority is required to evaluate the financial position of the petitioners. Clearly, the onus to show that the petitioners are not persons of means is required to be discharged by the petitioner by producing all relevant material relating to their income and wealth, which is in their special knowledge.

10. Undisputedly, the Competent Authority was required to evaluate the same. Given the nature of the controversy, this Court is of the view that

there was no requirement for the Competent Authority to permit cross-examination which would only delay the said proceedings. The impugned order rejecting the application of the petitioner cannot be faulted with.

11. The petition is disposed of with the aforesaid observations. The pending application also stands disposed of.

VIBHU BAKHRU, J

APRIL 15, 2019
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