

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

% **Date of decision: 11th March, 2019**

+ **CS(OS) 1606/2006, I.A. 9189/2006 (O XXXIX R-1&2), 9193/2006 [S.80(2)] & 349/2007(O.XXXIX R-4) and 350/2007(O VII R-11)**

R.B.SETH JESSA RAM AND BROS CHARITABLE HOSPITAL TRUST **..... Plaintiff**

Through : Mr. Pranay Trivedi, Adv.

Versus

UNION OF INDIA **..... Defendant**

Through : Mr. Praveen Kumar Jain, Ms. Rashmi Kumari and Mr. Raghav Dhanda, Advs. along with Mr. Rama Krishna, Superintendent.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The plaintiff, as per the amended plaint verified in July, 2017, though the suit was instituted as far back in the year 2006, seeks (i) declaration as illegal and *non est* of the communication dated 17th August, 2006 of the Ministry of Urban Development, Land and Development Office, New Delhi addressed to the Secretary, R.B. Seth Jessa Ram & Bros. Charitable Trust, of re-entry/cancellation of premises situated at W.E.A. Karol Nagh, New Delhi on failure despite opportunity to cure/remedy the breaches and calling upon the said addressee to deliver possession thereof; and, (ii) permanent injunction restraining the defendants from dispossessing the plaintiff from the property allotted under the Agreement to Lease dated 18th November, 1982 and Proforma Perpetual Lease deed dated 14th February, 1983.

2. The suit came up before this Court first on 22nd August, 2006 when

vide ex-parte ad interim order, the defendant Union of India/Land and Development Office was restrained from dispossessing the plaintiff from the property and from in any manner interfering with the peaceful possession and operation of activities of the plaintiff in the property and which order continues to be in force for the last over 12 years.

3. The suit came up before this Court on 23rd September, 2015 when it was observed that the subject land is public premises and the suit would be barred by Section 15 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. Attention of the counsel for the plaintiff was also drawn to *Escorts Heart Institute and Research Centre Ltd. Vs. D.D.A. & Anr.* AIR 2008 Delhi 70 and the plaintiff put to notice with respect to maintainability of the suit.

4. Notwithstanding the issue of maintainability of the suit having been raised nearly 3½ years ago, the suit with ex-parte ad interim order, as aforesaid continues to languish. First, on enhancement of the minimum pecuniary jurisdiction of this Court, the suit was transferred to the District Court. On the plaintiff applying for amendment of the plaint, seeking enhancement of the valuation of the suit, the suit has been received back in this Court.

5. Counsel for the defendant Union of India Land and Development Office, today also contends that the suit is not maintainable and should be dismissed. On enquiry, whether the defendant Union of India/Land and Development Office has taken any proceedings before the Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 it is stated that owing to the order aforesaid, such proceedings also could not

be initiated and have been delayed for the last over 12 years.

6. Counsel for the plaintiff states that the communication dated 17th August, 2006 is premised on the subject land lying vacant and Jessa Ram Hospital having been taken over by Fortis, in violation of the terms of Agreement to Lease and Proforming Perpetual Lease. It is contended that the plans for construction have been sanctioned and the Jessa Ram Hospital has not been taken over by the Fortis; Fortis is only maintaining the hospital.

7. However, counsel for the plaintiff also on inquiry agrees that if the dispute arises, whether what the plaintiff is saying is correct or not, the jurisdiction to adjudicate the same would be of the Estate Officer.

8. Once the plaintiff also admits so, it is sad that the suit was entertained and has remained pending in the Court for the last over 12 years, to the extreme prejudice of the public at large, from being deprived of the public premises and to the advantage/gain of the plaintiff who has continued to enjoy the said premises in the interregnum.

9. It is not claimed by the defendants also, that the defendant Union of India/Land and Development Office, after the letter dated 17th August, 2006, can forcibly take over the premises. According to the defendant also, proceedings under the Public Premises Act will have to be initiated and which have not been initiated owing to the interim order in this suit.

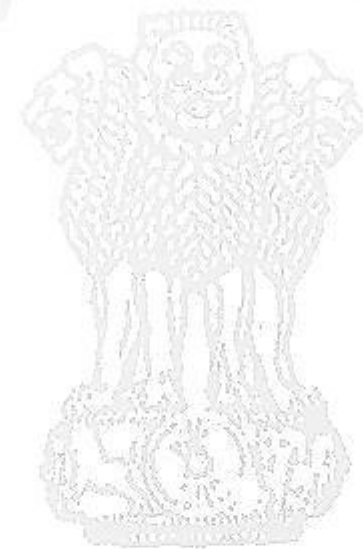
10. Axiomatically, the suit is disposed of, by restraining the defendant Union of India/Land and Development Office from dispossessing the plaintiff from the subject property save by invoking the Public Premises Act. However, since the proceedings intended to be initiated under the Public Premises Act have been delayed for over 12 years, it is directed that the said

proceedings be now initiated latest on or before 15th May, 2019 and be concluded on or before the 31st December, 2019.

11. All pending applications also stand disposed of.
12. The suit is disposed of leaving the parties to bear own costs.

RAJIV SAHAI ENDLAW, J.

MARCH 11, 2019
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