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

% **Date of decision: 13th December, 2021**

+ **W.P.(C) 3282/2021 and CM APPL.10026/2021**

VINOD SHARMA

..... Petitioner

Through: Mr. Karunesh Tandon and Mr. Suraj
Singh, Advs.

versus

ESTATE OFFICER, DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Ms. Prabhsahay Kaur, Standing
Counsel for DDA with Ms. Shilpa
Dewan, Adv.
Mr. Deepanshu Jain & Mr. Shaantanu
Jain, Advs. for applicant.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

YASHWANT VARMA, J. (ORAL)

CM APPL. 10027/2021 (for exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

**W.P.(C) 3282/2021, CM APPL.10026/2021 (stay) & CM APPL.
27716/2021(Impleadment)**

1. The petitioner challenges the validity of an order dated 6th May, 2015 passed by the Estate Officer in the course of proceedings initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971¹. Additionally, challenge is laid to an order dated 15th July, 2020 passed by

¹ The Act
W.P.(C) 3282/2021

the District Judge on the statutory appeal preferred by the petitioner herein and the same has affirmed the order of eviction as passed by the Estate Officer.

2. It becomes relevant to note that no challenge as such was raised to the recordal of the background facts in the order passed by the District Judge. That order records that the father of the petitioner was originally allotted premises in Block J, falling in B.K. Dutt Colony. The aforesaid allotment is stated to have been made by the Department of Rehabilitation. In 1984, upon a review of the unutilized land held by the Department under its administration and upon it being recognized that the area had become urbanized, parts thereof were transferred to the Delhi Development Authority². On the record is a communication of 5th April, 1984 in terms of which possession of the unutilized land was transferred by the Department to the DDA. Appended to that communication is an Annexure setting forth the details of the land and developed plots which constituted a part of the transfer being made. At serial number 7, the Department set forth the details of the land falling by the side of the old wall of the graveyard in Block J of B.K. Dutt Colony. The total area of this piece of land was described to be 539 sq. yards and carried a further remark of it having been encroached upon. Admittedly the land which forms the subject matter of the present proceedings was comprised in the aforesaid piece of land.

3. Undisputedly the only allotment which was officially made in favour of the father of the petitioner was in Block J of the colony in question. The site plan which was annexed along with the communication of 5th April 1984 evidenced encroachments having been made adjacent to the old

² DDA
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boundary wall and graveyard. Upon the factum of the aforesaid encroachment coming to light, the father of the petitioner is stated to have been placed on notice. Upon initiation of those proceedings, he submitted an affidavit dated 13th May, 1996 stating therein that a plot of land admeasuring 269 sq. mts. had been in his occupation since 1963 and that he was willing to pay damages and other charges as may be leviable and was also willing to vacate the same as and when required by the DDA. Upon submission of that affidavit, a verification exercise was undertaken by the Department which drew up a note stating that the father of the petitioner had in fact encroached upon 139 sq. yards of land. It was accordingly found that he would be liable to pay damages for the period 5th April, 1984 to 31st March, 1996. The note further provided that proceedings for eviction may also be initiated.

4. Upon quantification of damages, the father of the petitioner by his letter dated 27th May, 1988 accepted the liability to pay the same. He further submitted that since he was in advanced years of his life, his son, the petitioner herein, may be permitted to liquidate the aforesaid liability. The amount of damages as assessed was ultimately paid in instalments in June 1996, April 1997 and ultimately in February 2012. It is pertinent to note that the father of the petitioner passed away during the pendency of the aforesaid proceedings on 30th May, 2005.

5. Thereafter and pursuant to the directions issued by the Court in independent proceedings, a demolition exercise for removal of unauthorised encroachments is stated to have been initiated. In the course of those proceedings, a notice of 27th March, 2015 came to be issued against the petitioner under Section 4 of the Act. The petitioner was called upon to

submit a reply in those proceedings. The Estate Officer has noted in the order impugned that proceedings against the father of the petitioner had been initiated under Section 7(3) of the Act as far back as on 25th June, 1966. It is further noted that the demand of damages ultimately came to be finalized by the Estate Officer in terms of an order passed on 10th April, 1997. A show cause notice under Section 4 of the Act is thereafter stated to have been issued in the name of the present petitioner on 3rd October, 2007. Upon receipt of that notice the petitioner informed the respondents of the demise of his father in the year 2005 and further submitted an affidavit on 4th February, 2011 admitting to being in occupation of 139 sq. yards. It was further admitted by the petitioner that he would be willing to pay damages and other charges payable in respect of the same. The respondents further asserted that the petitioner herein had filed a false affidavit before the respondents by holding that the land which came to be unauthorisedly occupied was being used for residential purposes. Upon inspection and inquiry, it is alleged that the land was in fact being used for commercial purposes and that a play school named “Shemrock Play School” had been established and was being operated from the aforesaid premises. For the aforementioned act of filing a false affidavit, the respondents are stated to have filed a separate complaint with the concerned SHO in February, 2014. It was thereafter that the final notice for initiation of proceedings under Section 4 of the Act came to be issued.

6. The respondents in terms of the impugned order have proceeded on the basis that the unauthorised occupation of over 139 sq. yards was a fact that was duly admitted and conceded to by both the petitioner as well as his father. In view of the aforesaid, they have proceeded to hold against the

petitioner by noting that admittedly the said damages were willingly deposited and thus this facet itself amounted to an admission of being in unauthorised occupation. The legal challenges which were raised namely with respect to the authority of the Estate Officer as well as the validity of the notices issued under Section 4 of the Act also came to be negated.

7. Before this Court, learned counsel for the petitioner has impugned the decisions rendered by the respondents on the following grounds: -

- (i) It was firstly argued that the proceedings before the Estate Officer were closed in hot haste and the petitioner was denied an adequate opportunity to respond to the notice that was issued.
- (ii) It was further asserted that DDA had adopted a policy for regularisation of unauthorised occupation over public land as would be evident from Annexure-A to the rejoinder affidavit filed in these proceedings. According to learned counsel, the respondents have principally adopted a policy to only levy and collect damages from persons who have for long been in unauthorised occupation of government land. In view of the above, it was contended that the proceedings initiated against the petitioner under the provisions of the Act were arbitrary and discriminatory.
- (iii) Learned counsel further urged that while various unauthorised occupants have not been proceeded against, the petitioner alone has been singled out and thus had been treated unfairly.
- (iv) Learned counsel lastly argued that the proceedings initiated by the respondents were also liable to be faulted on the ground of having been belatedly initiated. It was submitted that the premises had admittedly been in occupation of his late father right from the year

1963 and that the respondents chose to initiate proceedings under Section 4 of the Act only in the year 2015.

(v) Learned counsel further argued that the proceedings have not only been initiated belatedly but they are also barred by limitation. Referring to Section 4, it was averred that the failure to initiate proceedings within the period prescribed therein, clearly renders the impugned proceedings and the impugned orders liable to be set aside on this legal ground.

(vi) It was lastly contended that once damages had come to be deposited, the action of the respondents in proceeding further under the Act is rendered wholly arbitrary and illegal.

8. Countering the aforesaid submissions, Ms. Kaur, learned counsel appearing for the DDA, has urged that the present writ petition is clearly in abuse of the process of Court since there can be no dispute with respect to the fact that both the petitioner and his father have continued to retain unauthorised occupation of government land for decades. Ms. Kaur contended that it is distinctly borne out from the record that an area of 139 square meters of land had been unauthorisedly occupied by them and this fact was candidly conceded to in the various affidavits that were filed by them before the respondents. It was further argued that the petitioner had also made false averments on affidavits by asserting that the land was being utilized for residential purposes when in fact a play school was functioning from the same. Ms. Kaur has taken the Court through the affidavits submitted by the petitioner as well as the father to highlight the fact that both had accepted the factum of unauthorised occupation, the liability to pay damages and the obligation to hand over vacant possession as and when

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required by the DDA. It was additionally contended that mere payment of damages cannot result in regularisation of unauthorised occupation. Ms. Kaur further apprised the Court that the DDA has adopted no such policy for regularisation of occupants who may have unauthorisedly occupied “public premises” as defined under the Act and that consequently, no relief is liable to be extended to the petitioner here.

9. Ms. Kaur learned counsel has placed reliance on the following decisions in support of her submissions:-

- a. **Aisha Jalal Vs. Lt. Governor**³,
- b. **Sundri Devi Vs. Delhi Development Authority**⁴,
- c. **Nandram Vs. Union of India**⁵, and
- d. **Sharma Montessori School & Oriental College Society Vs. Union of India**⁶.

10. At the outset and before proceeding to deal with the rival submissions addressed in respect of the orders impugned here, the Court proposes to dispose of the submission of the petitioner resting on the perceived existence of a policy formulated by the DDA for regularisation of unauthorised occupants of “public premises”. Learned counsel for the petitioner has placed strong reliance upon the documents appended as Annexure A to the rejoinder affidavit to buttress the aforesaid submission. In order to evaluate the correctness of the aforesaid argument, the Court deems it apposite to extract the relevant parts of Annexure A which reads

³ 2003 (104) DLT 398

⁴ 2003 (108) DLT 598

⁵ 2010 SCC OnLine Del 523

⁶ 2013 SCC OnLine Del 1579

thus:-

“3. In the Authority meeting dt. 23.07.2008, (Extract at Annex-A) all non-official members requested that a policy paper should be brought before the Authority for giving ownership rights to the occupants of old Nazul Estates and further pointed out that recovery of the damage charges by issue of Notices and by visiting the properties should be stopped. Accordingly, the Hon’ble LG directed that,

“Policy paper on the subject should be immediately brought before the Authority and till then no notices should be sent to the residents.”

4. Subsequently, in Authority’s meeting dt. 12.03.2012 (Copy of Agenda with Resolution at Annex-B), the Non-official members pointed out that Notices under PP Act to all the assesses are not being sent in time, resulting in non-payment of huge arrears by the occupants at the time of mutation (change of name of occupants in DDA’s records) in name of legal heirs of the subsequent purchasers. Considering this, the Hon’ble LG directed that,

“Notices for payment of assessed damage charges should be sent in time, by Regd AD post. In case of default of payment, another Notice be sent by Regd AD.”

5. Thus till formulation of a policy on damage property, it has been interpreted that the directions of Authority given in 2008 and 2012 restrained DDA from taking coercive action against the occupants of these properties, even in case they don’t deposit the damage amount in response to the notices issued for the same. In view of this, suo-motunotices have not been issued since 2008. Presently only on request of the occupants of damage properties, such notices are being issued. Due to this interpretation, after 2008, most of the staff of Damage Section has been diverted to other offices and the section is still working at reduced strength. To formulate a policy of Damage property, updated list of damage payee/ non-payee properties and its owners/occupants needs to be prepared with detail of areas and premises being used by way of survey/ secondary sources. Keeping this in view, two Survey teams were deputed in May’17 to carry out detailed survey to prepare list of properties/ occupants in a selected area to begin with (copy of Office Order at Annex-C). Despite best efforts, the teams couldn’t succeed primarily due to following reasons:

- i. Most occupants of damage payee properties recorded in 1959 were not available there now.
- ii. Portion of land (damage properties) divided/ sub-divided due to further sale/ purchase by original or subsequent occupants.
- iii. Floor-wise selling of properties to different occupants.
- iv. Most areas are thickly constructed in unplanned manner and occupied by different occupants, floor wise.
- v. New occupants (purchases on floor basis) have no information/ reluctant to share details about original occupants/ properties.
- vi. Occupants were having fear of eviction/ demolition of their properties.
- vii. Many properties in commercial use were having only labours, unaware of the request information.
- viii. In residential properties, only female/ children were found who were reluctant/ unaware.

6. In the meanwhile, in the Director General of Audit (Economic & Service Ministries) Report No. 31 of 2016 relating to Performance Audit Report on Land Management in DDA, in Para 7.4.2, the drawbacks in raising and collections of Damage Charges has been pointed out stating that the Notices were required to be issued to all the encroachers and the damage charges, instead of only in the cases of receiving of request from the unauthorised occupants 'to get their unauthorised occupancy transferred /mutated in their name or for No objection Certificate'. They also observed that there is no system either for regular identification of unauthorised occupants, or for raising demand/ collection of damage charges. (Copy of extract containing para-7.4.2 at Annex-D).

7. In view of the foregoing, to ensure systematic updation of the records of the occupants of the Damage properties, and raising demand for damage charge and its collection, the following is suggested.

7.1. Collection of data from Primary Source:

- (i) Self Assessment Scheme: the occupants of Properties in the categories of Damage payee or lease holder (including Ex-leasee) be

encouraged to voluntarily provide the details of their occupation of such property for updation of DDA's records through a self-assessment window by giving wide publicity in Leading Newspapers. For this purpose, the portion of the actual area of Nazul Lands where the properties are situated can also be publicised after superimposing the same on Delhi's map.

(ii) Documents thus collected will be used to update the following data:

- Damage property records contained in all the presently available records of about 22000 properties;
- Old lease records of OSB, if received any;
- Any other property on Nazul land which comes to notice.

(iii) Following punitive actions are suggested on submission of wrong information of self-assessment window.

- a) When occupancy details uploaded has been found wrong, an FIR will be filed for suppression of facts and submission of forged documents.
- b) Submission of false registration of property, the damage charges deposited already will be forfeited and demand will continue. FIR will also be lodged against the applicant.
- c) If wrong assessment is made wherein the area falls short from the details already provided, a penalty of 100% of damage charges will be levied on the remaining area per year.
- d) When wrong use of property has been uploaded on self-assessment window a penalty of 3 times of the correct damage charges will be levied, as per extant policy.
- e) In case a person registers/ self-assesses a property under the scheme which infactis not a "damage payee property" the said registration/ self-assessment will be ipso-facto null and void, the amount paid shall stand forfeited and no right shall accrue over the said property, in addition FIR shall be filed for fraud.

7.2 With the passage of time all the damage properties have been converted into multiple floors and it is suggested that all the damage properties wherein ownership varies floor-wise damage charges will be calculated as per the correct use and area of the floor on the prevalent basis

7.3 A scheme of waiver of interest component (interest on arrears of Damage) on damage charges by 50%, in case the same is paid within a window period of 6 months, can also be considered. This would further encourage the occupants to provide details with a view to get the damage

amount calculated and avail the scheme of waiver of penalty by ensuring its payment within the window period. Based on the response of occupants and the data updated in respect of the occupants of the damage properties, the future course of action in terms of framing of policy and collection of damages will be explored.

The strength of the Damage section in terms of manpower is very reduced due to transfers after the Authority's 2008 decision/ retirements. This needs to be recouped.

7.4 REVIEW OF AUTHORITY'S EARLIER DECISIONS: The decisions of the Authority taken in 2008 and 2012 need to be reviewed to allow the DDA to take punitive actions under provisions of the Public premises (Eviction of Unauthorised Occupants) Act, 1971, in case of non-payment of Damages despite issue of Notices for the same. This will facilitate recovery of Damage Charges, pending formulation of a policy on damage properties by way of issuing show-cause notices u/s 7(3) of the Public Premises Act 1971 informing the damage charges due, for the properties, whose records are presently available with DDA. In case of its non-payment, the Show-cause Notice for initiating proceedings u/s 4(1)/ & 7(3) for eviction of the unauthorised occupant can be issued.

8. Further, as stated earlier, the rates for collection of damage charges are decided by the Accounts Branch on year to year basis depending on various factors. For deciding the rate of interest on the arrears of damages at the time of assessment by the occupants of the damage payee properties, Section 7(2A) of PP Act 1971 reads as under:

“(2A) While making an order under sub-section (1) or sub section (2), the estate officer may direct that the arrears of rent or, as the case may be, damage shall be payable together with [compound interest] * at such rate as may be prescribed, not being a rate exceeding the current rate of interest within the meaning of the Interest Act, 1978 (14 of 1978).”

Substituted by Act 2 of 2015, section 5(a), for “simple interest” (w.e.f. 22-6-2015, vide S.O 1672(E), dated 22nd June, 2015).

8.1. This issue was examined inter alia in consultation with Account Department and it has been decided that on all the Damage properties as covered under Section 7(1) of 7(2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the interest will be charged @ 7% per

annum compound interest (compounded annually) on all the unpaid/ outstanding dues with retrospective effect. A circular in this regard was issued on 28.01.2019 (copy at **Annex-E**).

PROPOSAL:

In view of the foregoing, the following proposals are submitted before the Authority for decision:

1. A window for self-assessment of Damage Property will be put in operation. In this window all the assesses will put details of their properties, date of payment of damage charges, area and date of transfer of occupancy rights and superstructure to them and will assess at their own. The window will be made live in one month.
2. The DDA will upload actual data of self-assessment after operation of window. The data thus obtained through self-assessment will be verified through survey by an outside agency. The DDA will facilitate the outsource survey team at filed and by providing necessary input from collected records.
3. If a damage assessee provides wrong information on self-assessment window, penalty will be imposed as per para 7.1 (iii) of this note.
4. All the damage properties wherein occupancy detail varies floor-wise damage charges will be calculated during the self-assessment as per the correct use and area of the floor on the prevalent basis.
5. The interest @7% of compound interest per annum for arrears of damage charges by the occupants of damage properties as per provisions of section 7(2A) of PP Act, will be levied.
6. To allow a Scheme of waiver of penalty(i.e. interest on arrears of Damage) by 50%, in case the same is paid within a window period of 6 months from the date of its publicity, as proposed in Para-7.3 above.
7. **The compliance of above action, will not entitle occupancy rights and superstructure claim of the property and all the occupants will continue to be considered as unauthorised occupants of the property.**
8. **The payment of Damage and self-assessment will not create any right in favour of occupants/Damage Payee over the superstructure and land beneath.**
9. Review of the directions of the Authority given in 2008 in 2012. The DDA is being allowed to exercise powers under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 as stated in Para-7.4 above, to facilitate recovery of Damage Charges, after approval of the Agenda on damage properties and by way of updating the data of the present occupants of such properties.

Subsequently, a comprehensive policy to address the issues of grant of rights shall be formulated to resolve the issue in finality.

10. DDA will develop an online IT application for management of Damage Payee Properties, issuance of notices and reconciliation of dues and damage payments etc.”

11. As is manifest from a reading of the aforesaid resolution of the DDA, it neither represents nor embodies a policy decision taken by that authority to regularise or condone unauthorised occupation of public premises. The document when read as a whole only evidences a decision taken to streamline the system of payment of damages on a self-assessment basis. The Court fails to find any merit in the submission that the said document or policy paper is the repository of any decision taken by DDA to desist from taking action against illegal occupancy of public premises or to regularise such unauthorised occupation. In any case the Court also bears in mind the categorical statement made by Ms. Kaur, learned counsel, who submitted that no such policy decision stands adopted in this regard.

12. The Court also notes the following salient principles which were enunciated by a learned Judge in **Aisha Jalal Vs. Lt. Governor**⁷ insofar as the question of damages is concerned:-

“8. Learned counsel for the petitioner contends that though the land may belong to the Government and is public premises, there are other people occupying the adjacent land of which illustrations have been given against which no eviction proceedings have been taken. It is further contended that there has to be uniform policy for imposition of damages and that the petitioner cannot be singled out on this account. As far as non appearance of the petitioner is concerned, learned counsel submits that the petitioner is a lady who is not educated and thus failed to realise the consequence of non appearance. Learned counsel has strongly relied on the factum of the application for review having been made and notice having been given for appearance which was not found in the record, as also the order claimed to

⁷ 2003 (104) DLT 398
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have been passed on the application of the petitioner as a consequence of which demolition took place.

13. A reading of the order of the Estate Officer and the appellate authority show that the petitioner was duly served with the notice and appeared through duly constituted attorney being the husband. Number of opportunities were granted to file written objections but the same were not filed. On 2.5.1988 the petitioner failed to put in appearance. In fact even thereafter there was no appearance till the order was passed by the Estate Officer on 31.5.1988. Thus the matter remained uncontested on behalf of the petitioner despite opportunities having been granted to the petitioner. The evidence produced before the Estate Officer by the Department was thus relied upon since it was unrebutted. The evidence shows that a double storey house was constructed without any permission and that further construction was also carried out by the petitioner. The property was also used for commercial purposes. It is no doubt true that no material has been placed on record before the Estate Officer by the department insofar as the plea of the land being acquired for planned development is concerned. However, in my considered view the issue to be considered is whether there is any right of the petitioner to occupy the land in question which is a government land on payment of damages and whether the fact that other people are so occupying the land give rise to any rights in favour of the petitioner.

14. The charging of damages only implies that for the time period a person is unauthorisedly occupying the government property and the mere payment of damages does not create any right in favour of the occupant as in the present case being the petitioner.”

13. Aisha Jalal in unequivocal terms holds that the mere payment of damages does not create a right in favour of a person who may otherwise be illegally occupying public premises. A similar view was expressed by a learned Judge of the Court in **Sundri Devi Vs. Delhi Development Authority**⁸ with the Court observing: -

“3. The learned Additional District Judge, after hearing the parties, dismissed the appeal after noting that the petitioner had admitted that she was not in authorised occupation as she was paying damages for occupation of the premises in question which admittedly belonged to the Government. The learned Additional District Judge also noted the fact that the petitioner had stopped appearing before the Estate Officer on and after 31.07.2002 and

⁸ 2003 (108) DLT 598
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was therefore proceeded ex-parte. This was noted in the context of the submission that appropriate opportunity had not been granted by the Estate Officer to the appellant. In view of these facts and circumstances, it is apparent that appropriate opportunity had been granted to the petitioner to represent her case* before the Estate Officer and it is the petitioner who chose not to remain present on or after 31.07.2002 in proceedings before the Estate Officer. Therefore, the findings of the Estate Officer and the learned Additional District Judge, on this count, cannot be faulted. As regards the petitioner being singled out for eviction while others similarly situated were not being so dealt with, it is clear that such a plea is untenable. The truth is that the petitioner is admittedly an unauthorised occupant of the premises in question and mere payment of damages would not regularise the petitioner's occupation so as to convert her occupation from being unauthorised to being authorised. No such right is created by mere payment of damages and this is exactly what this court in the case of Aisha Jalal v. Lt. Governor & Others, 2003 III AD (Delhi) 303 has held. This decision has been correctly relied upon by the learned Additional District Judge while disposing of the petitioner's appeal under Section 9 of the Act. In the impugned Judgment, the learned Additional District Judge has also noted that the petitioner was neither a lessee nor a licensee of the premises in question.

4. However, in the same breath admitted that the occupation of the petitioner was unauthorised and the evidence that he would lead was not in the nature of establishing that the occupation was authorised. In this view of the matter, it is clear that the reasons for which the petitioner wants to lead evidence is beyond the scope of proceedings under the Public Premises Act. Under proceedings, pursuant to Section 4 of the said Act, the Estate Officer has to determine whether the occupant is occupying the premises under some authority or is an unauthorised occupant.”

14. It becomes pertinent to note that both **Aisha Jalal** as well as **Sundri Devi** have outrightly rejected the argument based on Article 14 of the Constitution and one which was voiced on identical lines by learned counsel for the petitioner here. The mere fact that action may not have been taken against other unauthorised occupants cannot possibly sustain an argument resting on that Article. As is well settled, Article 14 neither envisages nor sanctions equality in illegality.

15. The submission of learned counsel that the proceedings were barred by limitation is also thoroughly misconceived. It becomes relevant to note

that Section 4 while providing for a notice being issued within 7 days of the receipt of information of unauthorised occupation, cannot possibly be interpreted as prescribing a period of limitation. That provision nowhere provides that the right to seek eviction shall stand lost upon the expiry of the period of 7 days. In any case, this submission merits rejection when viewed in the backdrop of Section 4(1B) itself. That provision would on its own be sufficient to reject the contention as urged by learned counsel for the petitioner.

16. The Court further notes that the question of application of principles of limitation to proceedings under the Act is no longer *res integra* having been categorically rejected by this Court in **Nandram Vs. Union of India**⁹ where it was held:-

“14. Besides, the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is a special Act and it has provided for a period of limitation wherever it is necessary and, therefore, the provisions of the Limitation Act as such cannot be made applicable to such a special Act. In this connection, reference may be made to the decision of the Supreme Court in *T.K. Lakshmana Iyer and Others v. State of Madras and Others*, AIR 1968 SC 1489 and the decision in *Town Municipal Council v. Presiding Office, Labour Court, Hubli and Others*, AIR 1969 SC 1335. Reference may also be made to decision of the Madhya Pradesh High Court in the case of *L.S. Nair v. Hindustan Steel Ltd. Bhilai and Others*, AIR 1980 MP 106. In the said Division Bench decision of the Madhya Pradesh High Court delivered by the Chief Justice, G.P. Singh (as his Lordship then was), it was held that the Estate Officer is not a court and, therefore, the Limitation Act does not apply to a proceeding before him. It was further held that as Limitation Act does not apply and jurisdiction of Civil Court is entirely barred in matters governed by 1971 Act, there is no period of limitation for recovery of damages for unauthorised use and occupation of Govt. Company's quarter by its employee. I respectfully agree with the aforesaid decision of the Madhya Pradesh High Court and hold that to the proceeding under The Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the provisions of the Limitation Act shall not apply...”

⁹ 2010 SCC OnLine Del 523

Again, in **Sharma Montessori School & Oriental College Society Vs. Union of India**¹⁰, this Court observed: -

“10. Having considered the submissions advanced, impugned order, the material on record and decisions cited, I find that there is no limitation provided in the *Public Premises Act* for initiation of eviction proceedings or for recovery of damages. This Court in *Nand Ram v. Union of India*, 87 (2000) DLT 234, has categorically held that *Public Premises Act* being a special Act would prevail upon the *Limitation Act*. So, petitioner's reliance upon decision in *Inderjeet Singh* (supra) is of no avail as the same has been considered by this Court in a later decision in W.P.(C) No. 4688/1997, titled as *New Delhi Municipal Council v. Charan Singh Gupta*, rendered on 30th September, 2004, wherein it has been noted that even if the provisions of *Limitation Act, 1963* do not apply to proceedings under *Public Premises Act*, but still, an authority must act expeditiously in taking out proceedings for the recovery of damages.

11. It would be pertinent to take note of the fact that the decision in *Inderjeet* (supra) has been considered in a later decision of this Court in *NDMC v. Charan Singh* (supra), acknowledging the legal position of non applicability of the *Limitation Act* to proceedings under the *Public Premises Act* but in view of the fact that the unauthorised occupant was no more alive and was survived by the legal heirs only, the recovery of quantum of damages was restricted to a period of three years prior to the initiation of the eviction proceedings. Therefore, the precedential value of decision in *Nand Ram* (supra) is not watered down and holds the field. Thus, applying the ratio of decision in *Nand Ram* (supra), I repel petitioner's plea of the proceedings under the *Public Premises Act* being barred by limitation.”

17. The submission with respect to a violation of the principles of natural justice and the action of the Estate Officer proceeding ex parte is noticed only to be rejected for the following reasons. As is evident from the recordal of facts by the Estate Officer in the impugned order, the notice of 30 March 2015 was refused to be accepted by the brother of the petitioner. On 16 April 2015, the petitioner appeared and sought time to file a reply. On his request the matter was adjourned to 20 April 2015. Despite it being

¹⁰ 2013 SCC OnLine Del 1579

indicated to the petitioner that no further time would be granted, the Estate Officer again adjourned the matter on the said date by a further 10 days and posted the matter for 27 April 2015. On that date, the petitioner chose not to appear. No plausible explanation in this regard was proffered. It was in the aforesaid backdrop that the Estate Officer decided to proceed ex parte. Viewed in light of the above, it is evident that the petitioner cannot possibly urge that adequate or sufficient opportunity was not afforded. The Court also takes note of the fact that proceedings for eviction were being drawn in respect of the fact that unauthorised occupation of public premises which had continued with impunity right from 1963.

18. In any event, learned counsel despite repeated queries of the Court was unable to establish any actual prejudice having been caused to him consequent to closure of proceedings by the Estate Officer. The sole argument that was addressed in this respect was relating to the defence of the petitioner resting on a perceived policy decision of the DDA to regularise unauthorised occupation. That has already been found by this Court to be wholly misconstrued.

19. In conclusion, the Court bears in mind the sworn declarations made by both the petitioner as well as his father of being in unauthorised occupation of the premises in question. The aforementioned affidavits carry unequivocal admissions of the liability to pay damages as well as an assurance to hand over the property as and when demanded by the DDA. The petitioner has failed to show any valid authority having been conferred by the respondents to occupy the premises in question. The legal challenge raised to the orders impugned has been duly considered and negated by this Court.

20. For all the aforesaid reasons, the writ petition fails and shall stand dismissed.

YASHWANT VARMA, J.

DECEMBER 13, 2021

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