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

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Date of Decision: 23.09.2021

+ **LPA 342/2021 & CM APPL. 33363/2021 (exemption)**

ASHWANI KUMAR SHARMA Appellant

Through: Mr. Rajesh Kumar, Advocate

versus

BHARAT SANCHAR NIGAM LIMITED Respondent

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

: **D.N.PATEL, Chief Justice (Oral)**

Proceedings have been conducted through video conferencing.

CM APPL. 33363/2021 (exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

LPA 342/2021

1. Being aggrieved and feeling dissatisfied by the order dated 01.09.2021 passed by the learned Single Judge in W.P.(C) 9371/2021 ('Annexure A-1' to the memo of this Letters Patent Appeal), the present Letters Patent Appeal has been preferred by the original Petitioner.
2. Writ petition was filed before the learned Single Judge by the Appellant seeking the following reliefs:-

“i. to vacate the land by the Respondent peacefully.

ii. to remove all installations made by the Respondent from land of the Petitioner.

iii. *to pay arrears of rent at enhanced rate @ Rs. 8000/- for the entire period starting from 25th April 2015, day on which possession and usage over demised property became illegal till date of peaceful handover of same to the Petitioner.*

iv. *to compensate the Petitioner @ Rs. 5500/ per month for mental and physical harassment caused to the Petitioner by the Respondent on account of breach of the condition of lease deed.*

v. *to book a criminal case u/s relevant section of IPC and other statutes, as this Hon'ble court deems fit and appropriate, against the guilty officers of the Respondent including those mentioned above in point no. XIV and strictest punishment should be awarded to these people through the legal process.*

vi. *to burden the Respondent with the appropriate cost of this Writ Petition."*

3. We have heard learned counsel for the Appellant and perused the pleadings in the writ petition and the reliefs sought.

4. It is the admitted case of the Appellant that the land in question was given on lease to the Respondent/BSNL by his late father under Lease Agreement dated 25.04.2005, which expired by efflux of time on 24.04.2015. Appellant also claimed in the writ petition that after the death of his father on 19.08.2013, he approached the Respondent for vacating the subject land, being the legal heir of his father. Being unsuccessful in recovering the possession, Appellant approached the learned Single Judge and sought the aforementioned reliefs.

5. The learned Single Judge vide the impugned order, dismissed the writ petition on twofold grounds, viz., the remedy available to the Appellant is to file an eviction petition/suit for possession and the land being situated in Haryana and the Lease Deed also having been executed in the State of Haryana, this Court does not have the territorial jurisdiction to entertain the

petition.

6. Looking at the nature of relief sought, there cannot be any doubt that the Appellant is seeking possession of the subject land which was leased out by his late father to the Respondent. In our view, the remedy available to the Appellant is to file an eviction petition or a suit for possession, as the case may be and no infirmity can be found with this observation of the learned Single Judge. Writ remedy under Article 226 of the Constitution of India is an extraordinary remedy and cannot be resorted to by an owner/lessor of a property for seeking eviction or in the nature of suit for possession. In any case, the matter would involve disputed questions of fact and entail leading of evidence and a writ petition is thus not the appropriate remedy available to the Appellant.

7. We are also in agreement with the finding of the learned Single Judge that this Court has no territorial jurisdiction to entertain the present petition as the subject land is situated in Haryana and even the Lease Deed was executed in State of Haryana i.e. beyond the territorial boundaries of this Court. Merely because the Appellant resides in Delhi, as was sought to be argued by learned counsel for the Appellant, this Court could not have territorial jurisdiction to entertain the petition.

8. For ready reference, paragraphs 5, 6 and 7 of the impugned order are extracted hereunder:-

“5. In my view, once it is the petitioner’s own case that the respondent has come into possession of the subject land pursuant to a valid lease deed, the only remedy available to the petitioner is to file an eviction petition/suit for possession as the case may be, under the relevant statute. Even otherwise, not only is the subject land situated in Haryana, but the lease deed has also been executed in Haryana and, therefore, this Court does not

have territorial jurisdiction to deal with the present petition.

6. *The present petition is wholly misconceived and is, therefore, dismissed.*

7. *Needless to state, this will not preclude the petitioner from initiating appropriate proceedings for the reliefs sought in the present petition.”*

9. We are in complete agreement with the reasoning given by the learned Single Judge while dismissing the writ petition and declining to exercise the extraordinary writ jurisdiction in the facts of the case and find no infirmity in the impugned order.

10. Learned Single Judge vide the impugned order has already granted liberty to the Appellant to initiate appropriate proceedings in accordance with law. We reiterate that the dismissal of the writ petition and the present appeal shall not preclude the Appellant from resorting to appropriate proceedings for seeking possession of the subject land, before the appropriate Forum, in accordance with law.

11. There is no merit in the appeal and the same is accordingly dismissed.

CHIEF JUSTICE

JYOTI SINGH, J

SEPTEMBER 23, 2021

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