14.08.2024
Court No.09
Item no.08
CP

WPA No. 6135 of 2024

Krishan Kumar Tiwary
Vs.
Steel Authority of India & ors.

Mr. Pradyamna Sinha
Mr. Sannidhya Datta
... for the Petitioner.

Mr. L. K. Gupta, Sr. Advocate
Mr. Arjun Mukherjee
Mr. Chayan Gupta
Mr. Sayantan Chatterjee
Mr. D. R. Basu
....for the respondent nos. 1 to 5.

1. The writ petition has been filed for a direction upon the respondents to set aside a scheme bearing reference No. SGW/P&A/17-18/010 dated April 1, 2017, insofar as the same applies to the petitioner. The petitioner is a superannuated employee of the Steel Authority of India Limited (SAIL). The petitioner was allowed to retain a bungalow upon payment of security deposit of Rs.5,00,000/- as per an office memorandum. The Senior Manager, SAIL, one Mr. Rajeev Kumar, by a letter dated January 4, 2014, had informed the petitioner that the management of SAIL Growth Works, Kulti had agreed that the petitioner would retain bungalow no. 2, situated at Station

Road, Kulti, for residential purpose subject to fulfillment of certain conditions.

2. The conditions are quoted below:-

> "1. You have to deposit Rs.5,00,000/- (Rupees Five lac only) to SGW, Kulti as Security Deposit which will be refunded to you without interest at the time of handing over the vacant possession of the bungalow.
>
> 2. You will have to pay standard house rent & Electricity charges after your retirement.
>
> 3. You will have to pay Standard house rent and electricity charges @ Rs.1500/- per month.
>
> 4. The bungalow will be maintained by you at your own cost.
>
> 5. At the time of surrendering the accommodation the same is to be handed over to SGW, Kulti in good condition. Cost of damage, if any, will be realized from the security money."

3. The Assistant Manager (Civil & Town) by a letter dated January 29, 2015 informed the petitioner that he had been allowed to retain company's bungalow at SGW-Kulti Township with effect from February 1, 2015. Accordingly, the petitioner deposited the demand draft of Rs.5,00,000/-.

4. Another scheme dated April 1, 2017, was published by SAIL. The petitioner was required to exercise option to come under the 2017 Scheme, upon payment of the balance security deposit. The scheme provided that if the ex-employee did not opt to avail of the 2017 scheme, the previous retention order would be deemed to be rejected or cancelled and the

period of stay would be treated as unauthorized. Penal rent would also be charged as would be deemed fit including the initiation of eviction proceedings.

5. Mr. Sinha, learned advocate for the petitioner, submits that the said 2017 Scheme was contrary to the earlier scheme. The subsequent scheme would not apply in case of an ex-employee who was already allowed to retain the bungalow, upon payment of security deposit as was demanded by SAIL.
6. Thus, the validity of the scheme insofar as it was made applicable to the petitioner, has been challenged in this writ petition.
7. Mr. Gupta, learned senior advocate appearing for the respondent nos. 1 to 5, submits that several reminders were sent to the petitioner to exercise his option under the 2017 Scheme. The petitioner did not opt to come under the said scheme. Two additional years were given to the petitioner to remain in the premises even though he had failed to comply with the requirements of the 2017 scheme.
8. It appears that SAIL had already issued a notice to the petitioner on May 23, 2017 asking the petitioner to pay rent and electricity charges as per the 2017 Scheme. The petitioner did not pay the same. Another

reminder was issued to the petitioner in 2019. Thus, the petitioner was treated as an unauthorized occupant upon implementation of the 2017 Scheme by the employer and the proceedings were initiated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The petitioner participated in the proceeding and filed his objection. The matter is pending before the Estate Officer. At this juncture, the petitioner submits that the 2017 Scheme would not be applicable for various reasons. First of such reasons being that the petitioner as an ex-employee was already allowed to retain the bungalow in 2015 and the applicability of 2017 Scheme was de hors the Constitution.

9. The writ court cannot issue a mandamus upon the employer to allow an ex-employee to retain the bungalow which was allotted to the ex-employee at the relevant time when he was in service. It is absolutely within the jurisdiction of SAIL to decide how such ex-employee may be allowed to retain the accommodation. Thus, SAIL came up with various schemes. The petitioner availed of the first scheme and continued to be in possession although the SAIL contends that the retention was allowed for a fixed period. The said contention is not

relevant at this juncture. This court concludes that the writ petition assailing the scheme is not maintainable as the scheme has been floated by the employer for the benefit of employees. The validity thereof cannot be assailed in this proceeding. The contention of the petitioner that the scheme will not be applicable to him can be urged before the Estate Officer in the proceeding which is pending.

10. This court does not find that either any legal or any fundamental right of the petitioner has been infringed by the authority by floating a scheme which was aimed to benefit the employees or ex-employees. It was entirely the option of the petitioner whether to accept such scheme or not. The issue whether the petitioner could be treated as an unauthorized occupant will be decided in the proceeding before the Estate Officer.

11. The factual aspects pointed out by Mr. Sinha are matters of evidence which will be decided in the proceedings itself. The other contention of Mr. Sinha that an allegation of forgery is the subject matter of a criminal investigation is not relevant for consideration at this stage. In the matter of ***Board of Trustees for the Port of Kolkata &***

Anr. Vs. Vijay Kumar Arya & Ors. reported in ***(2009) 2 CHN 274***, The Hon'ble Division Bench of this court had categorically held that the Estate Officer had sufficient powers to decide whether the noticee under Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, was an unauthorized occupant or not. The relevant paragraphs are quoted below:-

> "**28.** After the Ashoka Marketing case the question that is posed here should scarcely have arisen. Any further doubt is now settled by the Nusli Neville Wadia judgment. Though an estate officer under the said Act is not required to be versed in law, he has sufficient powers to decide the, question as to whether a noticee under section 4 of the said Act is an unauthorised occupant and it is the adjudication on such score against the noticee that will permit him to proceed to evict the occupant adjudged to be unauthorised. Just as in the case of any landlord governed by the Transfer of Property Act such landlord would have to justify his decision to determine the lease or terminate the authority of the occupier to remain in possession in a civil suit instituted either by the landlord for eviction or by the lessee or occupier to challenge the notice, so is it with a statutory authority landlord under the said Act of 1971. The said Act merely removes the authority of the Civil Court to adjudicate such issue and places it before an estate officer under the said Act to decide the matter in summary proceedings. The estate officer has to look into all material before him and, in fit cases, receive oral evidence before he can arrive at a conclusion as to whether the noticee under section 4 of the said Act is in unauthorised occupation of the public premises. If he holds that the noticee is, indeed, an unauthorised occupant he

proceeds to remove the noticee and his belongings from the public premises; if he finds that the noticee is entitled to continue in possession, the matter is over. It is only the entire scope of adjudication on such issues that it removed from a Civil Court and is placed before the estate officer; the substantive law under the Transfer of Property Act may still be cited before the estate officer and taken into account by him for the purpose of his adjudication. The usual process under the Civil Procedure Code is merely substituted by a summary procedure before the estate officer. The only difference is that the lessee or occupier of any public premises may not bring a matter before the estate officer of his own accord, such lessee or occupier may only defend his position as respondent if the estate officer is moved by the statutory authority landlord.

29. As always, any act of the State or an instrumentality of the State has to answer to the demanding standards of Article 14 of the Constitution and a noticee under section 4 of the said Act is not precluded from urging such ground before the estate officer. The entire purpose of the estate officer issuing notice to an alleged unauthorised occupant and the procedure to be followed under section 5 of the said Act is rooted to the indispensable canons of natural justice. The power of the estate officer under section 8 of the said Act as of any Civil Court while trying a suit and the subjecting of the estate officer's judgment to appeal before a District Judge are sufficient safeguards to balance against the provisions of section 15 of the Act, barring the regular court's authority to receive an action in respect of such matters."

12. Whether the authority could initiate proceedings under the 1971 Act, treating the petitioner as an unauthorized occupant, can be decided in the proceedings before the Estate Officer. The petitioner will get an opportunity

to adduce evidence in support of his claim that the petitioner's occupation was valid, legal, authorized by the earlier scheme and the 2017 Scheme would not be applicable in his case.

13. The petitioner has already filed his objection. The petitioner has also submitted that SAIL had allowed similarly situated ex-employees to come within the purview of the 2017 Scheme at a belated stage and time had been extended in their cases permitting them to deposit the additional amount payable under the 2017 Scheme, but such opportunity was not given to the petitioner.

14. All these issues which have been raised in the writ petition, shall be raised before the Estate Officer and the Estate Officer shall proceed in accordance with law.

15. This order shall not be presumed to be a declaration of the court on the status of the petitioner and dismissal of the writ petition shall not be treated as a declaration that the petitioner is an unauthorized occupant. The Estate Officer has the authority and jurisdiction to decide whether the petitioner is an unauthorized occupant and such decision shall be arrived at by the Estate Officer, by proceeding in accordance with the statute and independently. This order is restricted to the

rejection of the prayers in the writ petition. The petitioner shall also file a more detailed objection before the authority with all his grievance and contentions within a month from date. Thereafter, the Estate Officer will proceed according to law.

16. The writ petition is accordingly disposed of.

17. There shall be no order as to costs.

18. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)