

The Lt. Governor and ors. Vs. Shiv Chander More and ors.

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SooperKanoon Citation : sooperkanoon.com/677266

Court : Supreme Court of India

Decided On : Apr-09-2008

Reported in : JT2008(5)SC448; 2008(6)SCALE422; (2008)4SCC690

Judge : Arijit Pasayat,; P. Sathasivam and; Aftab Alam, JJ.

Appeal No. : Civil Appeal Nos. 5091 and 5092 of 2004

Appellant : The Lt. Governor and ors.

Respondent : Shiv Chander More and ors.

Advocate for Def. : Vijay Hansaria, Sr. Adv., ; Sneh Kalita, ; Parmanand, ;

Advocate for Pet/Ap. : T.S. Doabia, Sr. Adv.,; Varuna Bhandari Gugnani,; A. Tariq

Disposition : Appeal allowed

Prior history : From the final Judgment and Order dated 06.02.2002 of the High Court of Calcutta, Circuit Bench at Port Blair in M.A.T. No. 28 of 2001

Judgement :

Arijit Pasayat, J.

CIVIL APPEAL NO. 5091 of 2004

1. Heard learned Counsel for the parties.

2. We find the approach of the High Court, (both learned Single Judge and the Division Bench), to be erroneous. It is conceded by learned Counsel for the respondent that the representation made on 05.05.2000 by Shiv Chander More was for a fresh grant of license. The Lt. Governor found and, in our view, rightly, that a second renewal was not permissible referring to a judgment of this Court in *Ratan Kaur v. Union of India* : AIR 1997 SC2723 . The order was challenged before learned Single Judge. Strangely, though learned Single Judge held that the decision was applicable but nevertheless granted relief to the respondent. The matter was carried in appeal before the Division Bench by the Lt. Governor, the Deputy Commissioner and the Tahsildar. Peculiarly, the Division Bench found that the decision in *Ratan Kaur's* case (supra) to be not applicable to the facts and circumstances of the case. Once learned Single Judge held that the decision was applicable, it was not open to the Division Bench to take a different view without even indicating any distinguishing feature. However, Mr. Vijay Hansaria, learned senior counsel appearing for respondent Nos. 1 to 4 submitted that the representation did not reflect the correct state of affairs, and in fact, what was being objected to was the action for eviction. That matter was never projected before the Lt. Governor and, as noted above, the prayer was for renewal. The order of the Lt. Governor, therefore, was legal and proper and the High Court should not have interfered with it. If the respondent has any remedy, as claimed, other than seeking fresh grant and/or renewal, that did not fall for consideration in the representation before the Lt. Governor and the High Court. We express no opinion in that regard.

3. The appeal is allowed to the aforesaid extent without any order as to costs.

CIVIL APPEAL NO. 5092 OF 2004

4. In view of the judgment in Civil Appeal No. 5091 of 2004, this appeal is allowed.