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**Sahib Singh Vs. Delhi Development Authority and ors.**

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**SooperKanoon Citation : [sooperkanoon.com/691097](http://sooperkanoon.com/691097)**

**Court : Delhi**

**Decided On : Nov-04-1986**

**Reported in : 1987(12)DRJ170**

**Judge : B.N. Kirpal, J.**

**Acts : Displaced Persons (Compensation & [Rehabilitation](#)) Act, 1954; Public Premises (Eviction of Unauthorised Occupants) Act, 1971 - Sections 4(1); Delhi Rent Control Act - Sections 14(1)**

**Appeal No. : Civil Writ Petition Appeal No. 357 of 1973**

**Appellant : Sahib Singh**

**Respondent : Delhi Development Authority and ors.**

**Advocate for Pet/Ap. : D.S. Golan**

**Judgement :**

**B.N. Kirpal, J.**

(1) The only challenge in the present writ petition is to the order of re-entry which had been issued on 24/6/1972 by the Land & Development Office, Delhi.

(2) Briefly stated, the facts are that the petitioner had purchased a plot of land No. 72, Ring Road, Lajpat Nagar, New Delhi under the provisions of Displaced

Persons (Compensation & [Rehabilitation](#)) Act, 1954.

(3) After the building plans had been approved by the Municipal Authorities, a 21 storey bungalow was constructed on the said land. The trouble for the petitioner arose when on 20/11/1969 he let out the said premises for residential-cum-office purposes to respondent No. 2, M/s. Curewel (India) Limited at a monthly rent of Rs. 2300.00 .

(4) The petitioner received a letter dated 20/3/1970 from the Ministry of Rehabilitation wherein it was stated that the letting out of the said bungalow residence-commence purposes amounted to a contravention of condition (vi) of the terms and conditions on which the land had been leased to the petitioner. The said condition reads as under :-

'THE lessee doth to the intent that the burden of the covenants may run with the said land and may bind any permitted assignee there of hereby covenant with the Lesser as follows :- (vi) not without the written consent of the Chief Commissioner, Delhi, to carry on or permit to be carried on, on the said land and building erected thereon during the said lease any trade or business whatsoever or use the same or permit the same to be used for any purpose other than that of a single storeyed building consisting . of one or two residential flats in all, with a barsati on top as may be approved for the locality or as provided in the building already on the said land ;

The petitioner sent a. reply dated 8/3/1970 which was followed by letters dated 31/5/1970 and 8/7/1970 and, inter alia, contended that there had been no breach of the aforesaid Clause (vi) of the lease deed. The petitioner also sent a cheque to the respondent for the ground rent but vide letter dated 15/7/1971 the said cheque was returned to the petitioner.

(5) The petitioner then received a letter dated 24/6/1972 from the Land & Development Officer. Delhi whereby the petitioner was intimated that re-entry had been effected by the first respondent and it was stated therein that all the buildings, structures etc. On the said plot of land now stood vested in the President of India, An officer of the Land & Development Office was also

authorised to take over the physical possession of the premises in question.

(6) The petitioner then sent a legal notice under Section 80 Civil Procedure Code . According to the petitioner no action was taken thereon but on 16th March, 1973 a notice under Section 4(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was sent to the petitioner. In the said notice it was, inter alia, stated that the petitioner was in unauthorised possession of the property in question and that he should show cause as to why he should not be evicted.

(7) On the receipt of the aforesaid notice, the petitioner sent a notice terminating the tenancy of Curewel (India) Limited who/was asked to vacate the premises and hand over the possession to the petitioner. On 26/7/1972 the petitioner wrote to the respondent informing it that a notice terminating the tenancy had been served on the tenant and that the petitioner will also be taking steps for the eviction of the said tenant under the provision of Delhi Rent Control Act and Section 14(1)(K) read with Section 14(1)(e) of Delhi Rent Control Act in particular.

(8) The petitioner then filed, on 6/9/1972, a petition for eviction of the tenant on the ground contained in Sections 14(1)(K) and 14(1)(e). In the mean time, it appears that Delhi Development Authority also launched prosecution against the petitioner on account of the alleged violation of the master plan. The petitioner then filed the present writ petition challenging the prosecution which had been launched as well as the orders passed by the Land & Development Office ordering re-entry of the premises in question.

(9) During the pendency of the writ petition the prosecution initiated by the Delhi Development Authority was quashed. Subsequently, the writ petition was amended and Delhi Development Authority was deleted from the array of respondents and the prayers were accordingly restricted, the prayers now being for quashing the orders of the Land & Development Office alone.

(10) During the course of arguments learned counsel for the petitioner has informed us that the proceedings initiated by the petitioner under Sections 14(1)(K) and 14(1)(e) ended in his favor and the tenant was asked to pay a fine. We are not here concerned with the payment of that amount but what is of relevance here is

that the tenant has now vacated the premises and the same are being used by the petitioner who is residing therein.

(11) The short question, therefore, which arises for consideration is whether there has been a violation of the terms of lease deed executed between the petitioner and the Land & Development Office.

(12) There can be no doubt that the aforesaid Clause (vi) does prohibit the use of the land and building, inter alia, for any trade or business whatsoever. What has, therefore, to be seen is whether the premises in the present case were let out by the petitioner for its being used for any trade or business. Mr. Golani, the learned counsel for the petitioner has placed before us a lease deed dated 20/11/1969 executed between the petitioner and M/s. Curewel (India) Limited. Clause 6 of the said lease deed clearly states that the premises will be used for residence-cum-office only. Clause 8 of the said lease deed further provides that the Lessee shall not do any act or omit to do any act which contravenes or is not in accordance with any regulations rule or bye-laws of the Municipal Authorities, Improvement Trust, land and development office and all other local authorities. The reading of the lease deed leaves no manner of doubt that the intention of the petitioner was never to let out the said premises for being used for any trade or business. The use of the expression 'residence-cum-office' read in conjunction with the provisions of Clause 8 of the lease deed clearly shows that the premises were primarily to be used for residence only but the occupant was also authorised to have his office therein. The dominant purpose, in other words, of the demised premises was to be for the residence of the officers and employees of the tenant. The petitioner and the tenant were aware of the restriction which had been imposed by the Land & Development Office on the use of the premises and that is why Clause 8 was specifically inserted in the lease deed. If the tenant uses the premises in contravention of the lease deed or for a purpose not permitted by the Land & Development Office the petitioner cannot in any way be penalised for the same. As far as the petitioner is concerned he had no intention at any point of time to contravene any term of the lease entered into by him with the President of India. When the alleged contravention was pointed out, the petitioner promptly took action and did all that he could to stop the alleged misuser. The petitioner

succeeded in his efforts and the tenant is no more in occupation of the said premises. We are, therefore, clearly of the opinion that the action of the respondents in effecting re-entry is not called for.

(13) For the aforesaid reasons the writ petition is allowed and the impugned orders and notices dated 20/3/1970, 24/6/1972 and 16/3/1973 are quashed. The parties shall bear their own costs.

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