

Raja Dharampal Singh

Vs

Director, Small Industries Services Institute and Others

Civil Appeal No. 929 of 1978

(P. N. Bhagwati, E. S. Venkataramiah JJ)

26.02.1980

ORDER

1. The only ground on which the order for eviction passed by the Prescribed Authority and confirmed by the Second Additional District Judge, Agra, has been set aside by the High Court is that the Union of India was not impleaded as a party in the application for eviction made by the appellant before the Prescribed Authority. This is a hypertechnical plea taken by the respondents which does not deserve any consideration, since the Director Small Industries Services Institute, Secretary to the Government of India, Ministry of Industrial Development and the Deputy Director/Officer in Charge of the Small Industries Services Institute were all joined as parties in the application for eviction and an order for eviction was sought against them. It is common ground between the parties that the premises were occupied by the Small Industries Services Institute and the Director and the Deputy Director, who were in charge of the affairs of the Institute sufficiently represented the interest of the Union of India and so also did the Secretary to the Government of India, Ministry of Industrial Development, who was the Secretary in overall charge of the Institute. The High Court was, in our opinion, clearly wrong in setting aside the order of eviction passed in favour of the appellant on the sole ground that the Union of India was not represented in the application for eviction. It is interesting to note that the writ petition which was filed in the High Court challenging the order of eviction was preferred not by the Union of India but by the same three respondents, namely, the director and the Deputy Director of the Institute and the Secretary to the Government of, India, Ministry of Industrial Development. If the contention of the respondents is right, the order of the High Court would also be bad. But we do not think that the contention of the respondents is well-founded. The three respondents to the application for eviction, in our opinion, sufficiently represented the Union of India and, therefore, there was no justification for the High Court to set aside the order of eviction. It is a little regrettable that the High Court should have interfered with a fair and just order by relying on a hypertechnicality while exercising its extraordinary jurisdiction under Article 226 of the Constitution, which is a jurisdiction calculated to advance the cause of justice and not to defeat it.

2. We accordingly, allow the appeal, set aside the order passed by the High Court and restore the order of eviction passed in favour of the appellant.

3. The respondents will pay the costs of the appellant.

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