

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

OWP No. 792/2006
CMP No. 1048/2006

Date of decision:25.11.2011

Janta Dal (United) v. State and ors.

CORAM:

MR. JUSTICE J.P. SINGH.

Appearing Counsel:

For Petitioner(s) : Mr. Rajinder Singh Jamwal, Advocate.

For Respondent(s) : Mr. F.A.Natnoo, Advocate.

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| i) | Whether approved for reporting
in Press/Journal/Media | : | Yes |
| ii) | Whether to be reported
in Digest/Journal | : | Yes |
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The petitioner-Janta Dal (United), Sharad Yadav Group, has approached this Court seeking quashing of Jammu and Kashmir Special Tribunal, Jammu's Order dated October 31, 2006, dismissing its Revision preferred against Order dated 13.08.2005 of Custodian, Evacuee Property, Jammu, whereby its allotment of EP House No. 239 situated at Panjbakhtar Road, Jammu was cancelled.

All that is pleaded in the Writ Petition to seek setting aside of the questioned Orders is that the petitioner was running its Office in the premises in question for the last more than two decades and having first right to allotment/renewal of Lease, the Authorities under the Jammu and Kashmir Evacuees Administration of Property Act cannot evict it **forcibly without adopting due course of law.**

It is indicated in the Petition that former President of the State Wing of Janta Dal had filed Civil Suit seeking Permanent Prohibitory Injunction restraining the Evacuee Property Department from evicting the petitioner from the premises in question, and after his death, petitioner had questioned Custodian's Order before the Jammu and Kashmir Special Tribunal; but without success.

The Custodian Evacuee Property, Jammu contests the petitioner's Claim urging that having been found to have misused the premises letting it to others, thereby violating the provisions of Rule 14 of the Evacuee Property Rules, the allotment made in favour of Sanjay Gupta, deceased President of the State Unit of Janta Dal was cancelled when despite Notice issued to him in this behalf, he opted not to contest it and the petitioner had, therefore, no right to invoke the Extra Ordinary Jurisdiction of the Court.

Heard learned counsel for the parties.

Perusal of the records reveals that the Custodian Evacuee Property issued Notice to the former President of the petitioner calling upon him to Show Cause as to why the allotment be not cancelled for violation of the provisions of Rule 14 of the Evacuee Property Rules and a copy thereof was

served on the former President by pasting it on the premises in question, i.e., following one of the modes of service as prescribed in Evacuee Property Rules.

Ex-President did not respond to the Notice and accordingly eviction order was issued against him, which he did not question before the Authorities prescribed under the Jammu and Kashmir Evacuee Administration of Property Act. Rather than questioning the Custodian's order before the prescribed Forums, the Ex-President approached the Civil Court seeking Restraint directions against Evacuee Property Department not to evict him from the premises in question.

Ex-President died during pendency of Civil Suit, whereafter the Suit does not appear to have been prosecuted by any one on his behalf.

Rather than prosecuting the Suit, the petitioner appears to have questioned the Custodian's Order by its Appeal/Revision filed after more than one year.

The Tribunal treated the petitioner's Appeal as Revision condoning delay in its filing, but did not find any illegality in the Custodian's Order taking the view that cancellation of allotment did not suffer from any error of law.

The petitioner has not indicated any ground in the Writ Petition on which it proposes to question the Order of Eviction, except saying that the petitioner cannot be evicted from the premises in question without following due procedure prescribed by law.

Petitioner's Ex-President, having not contested the Eviction Notice and resultant Eviction Order during his life time, the petitioner's plea that the respondents may not evict it without adopting due course of law is found without merit, for, the respondents had proceeded against the allottee after following the procedure prescribed by law. They are not evicting it without adopting due course of law, as alleged by the petitioner.

There is no substance in the Writ Petition, which is, accordingly, dismissed.

(J.P. SINGH)
JUDGE

JAMMU
25.11.2011
Pawan Chopra