

IN THE COURT OF THE ADDL. DISTRICT JUDGE, BHUBANESWAR.

PRRESENT:-

Shri I.K. Das, LLB,
Addl. District Judge, Bhubaneswar.

FAO No. 3/19 of 2011-08

(Arising out of order dtd. 5.2.08 in IA No. 420/07 passed by learned
Civil Judge, Jr. Division, Bhubaneswar in CS No. 312/07)

Kali Charan Rout, aged about 48 years
S/o: Late Parsuram Rout, residing at Vill: Pahanga
PO: Pahanga, Dist: Cuttack, A/p: Qrs. No. 2RF 5/1,
Orissa Cooperative Housing Corporation Colony
Unit-III, PS: Kharvelnagar, Bhubaneswar, Dist: Khurda

... Appellant

Vrs.

1. Orissa Cooperative Housing Corporation Ltd
Bhubaneswar, represented through its Managing Director
Janpath, Unit-III, Bhubaneswar, Dist: Khurda
2. President, Cooperative Housing Corporation Ltd
Janpath, Unit-III, Bhubaneswar, Dist: Khurda

... Respondent

Advocate for the appellant:- Sri J. Das & Associates
Advocate for the Respondents- Sri S.B. Jena & Associates

Date of argument- Dt.30.10.14

Date of judgment- Dt.14.11.14

JUDGMENT

1) The appellant was the plaintiff in CS No. 312/07 filed in the Court of Civil Judge, Sr. Divn., Bhubaneswar. He was working as Inspector in Orissa Cooperative Housing Corporation Ltd at Bhubaneswar and was serving under the respondent since the year 1985. But, he was dismissed from his service on dtd. 17.5.2000 on the basis of a resolution made by respondent No.2 who is the President of the Organization in a departmental proceeding No. 1296 dtd. 31.5.03.

The appellant challenged the said order before the Cooperative Tribunal, Orissa at Bhubaneswar vide Service Dispute case No. 8/07 which is still sub judice. During his service, the appellant was in occupation of a quarter at Bhubaneswar where he was residing with his family consisting of his wife and two minor school going daughters. In the meantime, the respondent tried to evict the appellant from the said quarter during mid of the session. In the circumstance, if the appellant will be evicted from the quarters during mid of the academic session, his two minor daughters who are prosecuting study in the school will be seriously affected and hence, he filed the suit praying the Court to pass order of injunction against the respondent from evicting the appellant from the quarters. In addition to the suit one interim application was filed for ad-interim injunction against the respondent.

2. The respondents being the defendants in the Court below filed their objection that the appellant is now a stranger as he has been dismissed from his service with effect from 17.5.07. The respondent-corporation has a rented colony which is provided to its staffs on monthly rent basis. The amount collected from the tenants is the income of the corporation and its employees are paid salary out of the said amount. The appellant did not pay the house rent which he was occupying for a pretty long time for which he was noticed to vacate the said quarter. Hence, it is prayed by the respondents to direct the appellant to vacate the quarters taking into consideration the public benefits.

3. I have perused the LCR wherein the respondent has filed a copy of the petition in Service Dispute Case No. 8/07 filed before the Cooperative Tribunal, Orissa, Bhubaneswar alongwith his order of dismissal. A copy of the notice issued by respondent on dtd. 14.9.07 to vacate the quarter has also been filed. Learned Court below while examining the material on record came to the conclusion that if the appellant is permitted to continue the possession of the quarters without paying any rent, it will cause prejudice to other employees of the organization and further, it will be difficult on the part of the Corporation to pay the salary to its employees. Furthermore, when the appellant is already dismissed from the service, he has no locus standie to occupy the quarters. Accordingly,

learned Court below decided all the three factors namely, prima facie case, balance of convenience and irreparable loss against the appellant and dismissed the case.

4. During hearing of the appeal, learned counsel for the appellant submitted that taking into consideration the natural justice and particularly, when the order of dismissal has been challenged before Cooperative Tribunal, appellant should not be disturbed by evicting him from the quarters. In the event of such eviction, both the daughters of the appellant who are prosecuting their study in the school will seriously be affected and therefore, it is submitted to allow the appeal by setting aside the order of the learned lower Court.

5. As regards the jurisdiction of the civil Court, in order to entertain the dispute, it is submitted that when the appellant has already been dismissed from the service, he cannot file such case before Cooperative Tribunal and only the Civil Court has got jurisdiction to decide such dispute.

6. After hearing from both the sides and on perusal of the documents, I find that the quarter in question is a rented house by respondent which is allotted in favour of the employees of the Corporation and to outsiders for the purpose of collecting rent and this being a source of income of the respondent, the employees are paid out of it. Heavy arrear in payment of house rent against the appellant has not been disputed and further, he has already been noticed in the year 2007 to vacate the quarters. But, till now he has not complied to the said notice by vacating the quarters, although in the meantime, 7 years has already been passed. The reason of refusal to grant injunction from evicting the appellant from the quarters is reflected in the order by the learned lower Court appears to be very genuine as further permitting the appellant to occupy the4 quarter will cause inconvenience to many other employees of the Corporation. When sufficient time has been given to the appellant, I do not find any reason to permit the appellant to continue his occupation in the quarter. Accordingly, prima facie case, balance of convenience and irreparable loss lean in favour of the respondents, but not in favour of the appellant. Hence, it is ordered.

ORDER

The FAO is dismissed on contest without any cost and the finding of the learned lower Court is hereby confirmed.

Pronounced in the open Court today this the 14th day of November, 2014
Dictated and Corrected by me.

Addl. District Judge, Bhubaneswar

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