

[2019] 11 S.C.R. 57

CHANDIGARH ADMINISTRATION AND OTHERS

v.

HARI RAM

(Civil Appeal No. 6123 of 2019)

AUGUST 06, 2019

[R. BANUMATHI AND A. S. BOPANNA, JJ.]

Public Premises (Eviction of unauthorised occupants) Act, 1971 – s.5(1) – Ayaba yaodana kansilaga leibasingbu tanthokpa – appellant-administration na 1996 da Respondent da booth ama apunba senfam Rs.70,500/- da bhara da saandokami – Respondent na ahanbgi senfam thiraduna booth adubu masada sinarakhi – adu oijarasu respondent na ahanba, anisuba amadi ahumsuba thigadaba senfam mchit singdu thikheramday – maram aduna makha tana respondent da shaliba bhara adu tokthokhi – bhara kakpana maram oiraga sokladuna respondent na Chief Administrator gi mang da appeal tharame – Tallak aduda Estate officer na respondent gi mayokta tanthokpagi order takherame – adu oijarabasu Appellate Authority na respondent na tharakpa bhara sanba tokhibabu shingnaduna tharakpa appeal adu kakhi – Chief Administrator gi order gi mayokta tharakpa revision adusu kakhi – Writ petition – Respondent na hana Rs.1,02,000/ thikhebana amadi High Court da Rs.40,000/- pisinkheba leibana, High Court na respondent bu makha tana thifamfam thokpa senfam thidoknabgi damak khudong chaba pirami – makha tana appeal toubu matam da haikhe: madudi respondent da yamdrabada 26 rak khudong chaba piraba faobada da mahakna awatpa senfam pikhiday– Respondent na hanjin hanjin thigadaba senfam machit sing thibada soirakpadagi matik chaba authority na mahaki mathakta ain gi oiba loukhatpa yakhe – booth allotment adu 1996 da oikhebana amadi mahakna Rs.1,02,000/ asimasu pisinkhebana maram oiraga respondent da houjik chatnariba mamal da senfam thinaba haibasi maram chady – appellant-administration amadi respondent-allottee animakki yaifanabgi khal ama puraknaba gidamak amadi achumba wayelgi damakta 2010 da chatnakheba mamal aduda booth ki mamal pabana maram chagane haibadi Rs.12,77,950/ da- – Respondent na Rs.2,72,969/- lamgi khajana yaona hanana thikhray- adu oijarabsu respondent na hana thikheba property tax adu apunbada pasinbadi yakheramday – Maram aduna respondent bu Rs.12,77,950/- dagi Rs.2,52,000/-(respondent na hana na thikheba senfam) taraga tha 6 gi manungda senfam thinaba hairame - hairiba senfam asi thidokpa ngamdragadi, appellant-administration na respondent gi mathakta tanthokpagi chathagadba ain gi oiba thabak chathaba yagane.

Appeal adu court na ayaba piraduna,

HAIKHE: 1. Case asida, bhara fanglaba tungda respondent na ahanbagi senfam khakta thirame aduga mahak na ahanba, anisuba amadi ahumsuba thigatfam thokpa senfam machit sing amadi tarik 25.12.1997, 21.12.1998 amadi 25.12.1999 da thifam thokpa bhara thiramde amadi senfam sing adusu hanjin hanjin khudong chaba piraba faobada respondent na thikheramday. Respondent na hanjin hanjin thifam thokpa senfam thidabada soirakpana maram oiraga, mahaki mathakta matik leiba authority na aingi oiba thabak loukhtpa yarammi. 2015 da Rs. 26 Lakhs youraba matam da , Appellant Administration na 1996 da leikheba mamal aduda hotlaga lam aduga khaidoknou haiba yaroi. Respondent na mamang da soikheba mayam udabida, High Court na bhara sanba tokpagi order adu kakladuna respondent da thifam thokpa senfam thidoknaba order takhebadu maram chady. Bharada pikhiba adu 1996 da oibana, respondent na hairiba matam da leiba mamal aduda senfam thinaba taksinaba yady. [Para 10] [62-F-H]

2. High Court na takheba singnaraklaba order takhiba numit adufaoda respondent na Rs. 1,02,2000/- khak ta thikhre. Chief Adminstrator na takheba order da uba fangbadouna respondent na Estate Officer gi manga da awatpa senfam pisalagae haina jaban piraba matungfaobada, sefam adu pikheramday. Court asigi tarik 26/03/2019 gi yathang matung inna, respondent na Rs.1,50,000/- Chandigarh Administration da pikherami. Court asigi yathangi matung inna Appellant gi ukil na tarik 31/08/2015 faobada Rs. 1,91,114/- asi bhara amadi senthoi oina amadi Rs. 2,735/- asibuna service tax oina awatpa lei haina Affidavit oina pisilami. Tarik 19/08/2015 da pisinkheba Affidavit gi matung inna hairiba tarik asida collector gi mamal da, matamdugi chatnariba mamal gi matung inna booth gi mamal Rs. 26,35,772/ oi - loinana Rs. 48,576/- (semsabgi mamal) oi amadi apunbana Rs. 26,84,348/- oi. Court asigi makha taba yathangi matung inna, Chandigarh Administration gi Ukil na 2010 gi matam da chatnaramba mamal gi matung inna booth gi mamal Rs.12,77,950/- oirami haina court gi mang da thamkhi. [Para 11] [63-A-C]

3. Respondent da bhara sanba 1996 da oibna maram oiraga amadi mahakna Rs.1,02,000/- asi pisinkhebana maram oiduna, respondent da houjik houjk chatnariba booth gi mamal da peisa pisilu haiba maram chady. Appellant Administration amadi respondent-allottee animaki yaifanaba gidamk khal ama purakna amasung achumba wayel gi damak yengladuna, 2010 da chatnakheba booth gi mamal chatnabana maram chagane. Leiriba case ki wari amadi maong asi yenglaga loinana respondent na Rs.1,02,000/- hana

pisinkhebana maram oiraga, 2010 da chatnakheba mamal haibadi Rs.12,72,950/- adu pinabagidamk respondent da yaathang pibana maram chagane . Respondent gi Ukil na, respondent na houjikfaoda Rs.2,72,969 property tax yaona thikhry haina court gi mang da thamkhe. Respondent na chahi kaya booth adu kansinduna lakpana maram oiraga, mahakna lamgi khajana oina thikheba senfam adu mahakna thifam thokpa senfam adudagi khaidokpa yaroi. Rs. 10,25,950/- asi Respondent na thifam thokpa senfam ne (haibadi Rs.12,77,950/-dagi Respondent na hana pikhraba senfam Rs.2,52,000/- khaidoklaba tung da) [Para 12] [63-D-G]

Teri Oat Estates (P) Ltd. v. U.T., Chandigarh and Others
(2004) 2 SCC 130 : [2003] 6 Suppl. SCR 1235 -
neinakhiba.

Mateng loukheba case sing

[2003] 6 Suppl. SCR 1235 pankhiba Para 9
CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6123 of 2019.

C.W.P. No. 19200 of 2008 da Chandigarh gi High Court of Punjab and Haryana na tarik 26/07/2012 da takheba judgement and order gi matung inna.

Appellants gi damak ta lepkhiba wakilsing M. S. Doabia, Sudarshan Singh Rawat.

Respondent gi damak ta lepkhiba wakilsing Dinesh Verma, Rajat Sharma, S. L. Aneja.

Judgment asi **R. BANUMATHI, J.** na takhebane

1. Appeal gi ayaba pikhe.

2. Appeal asi High Court of Punjab and Haryana na CWP No.19200 of 2008 gi tarik 26/07/2012 da takheba order amadagi thoklakpane, hairiba asida High Court na appeallant gi mayok ta takheba tanthokpagi (eviction) yathang adu kakhi loinana Appellant na pisinkheba Rs.40,000/- adubusu respondent da handoktuna mahaki bharada loubha booth gi thifam thokpa bhara thibada mateng oihanaba haikhe.

3. Respondent-Hari Ram da tarik 26.12.1996 da booth No.254, Sector-20D, Chandigarh bu appellant-Chandigarh Administration na apunba senfam Rs.70,500/- da chahi 99 gi bhara da pithoklammi. Respondent na ahanbagi senfam khara thiraba matung da mafam adu masa da sinarami. Respondent na tarik 25.12.1997, 25.12.1998 amadi 25.12.1999 da thigadba ahanba, anisuba amadi ahumsuba thifam thokpa senfam machit sing ga loinana bhara gi senfam thikheramday. Respondent da pikheba bhara adu mahakna yanakheba warol sing thugairaktuna amadi thigatfam

thokpa sel machit ahum amadi bhara thidabana maram oiraga 21.06.2006 da kakhe. Pikheba bhara adu kakpadagi sokpana maram oiraga Respondent na Chief Administrator, Chandigarh mamang da appeal thakhe. Hairiba tallak asida tanthokpagi (eviction) order ama Union Territory of Chandigarh da chatnaba Public Premises (Eviction of Unauthorised Occupants) Act, 1971 gi Section 5(1) gi makhada respondent gi mayok ta thokhe,

4. Tanthokpagi (eviction) order adubu shingnaraduna Appellate Authority-Additional District Judge, Chandigarh da appeal tourame . The Additional District Judge na tarik 14.05.2007 asida takheba order matung inna Estate Officer na takhiba Tanthokpagi order adu kaklami hairiba order asi kakpagi maram na tarik 21/06/2006 asida booth adu bhara da piba kakpagi order adu Respondent na Chief Administrator, Chandigarh gi mang da shingnaraktuna lei amadi matamdufaob appeal adu loisindbi da leiri haina pirame. Khang heiraba Additional District Judge na haikhe madudi booth bhara da piba tokpagi mayokta toubu appeal adu loisindribana, Estate Officer na appeal aduge rai ama ngaifam thokpani amadi ngaidabida houkheba khongthong adu chumday. Maram mayam asidagi, Appellate Authority-Additional District Judge na tanthokpagi order adubu kaklammi aduga appellant adu Chief Administrator, Chandigarh gi mangda loisindana leiriba booth bharada piba tokthokpa gi mayokta thaba appeal adu loisindrifaoba booth No.254, Sector-20D, Chandigarh dagi tanthokloidabane haina hairami.

5. Respondent na Chief Administrator, Chandigarh gi mamangda bhara sanba tokthokpagi mayokta thakhiba appeal adu tarik 20.08.2008 da takheba order amana kakhe. Chief Administrator, Chandigarh na haikhi madudi Estate Officer na chahi 4 gi manung da yamdrabada 26 rak respondent-allottee da khudong chaba pikhi adumakpu senfam adu pinsinbada ngamkhide. Respondent na Estate Officer da awatpa senfam adu pisinabgi damak makha tana da matam khara pinabgi damak haijabada Chief Administrator na yakheramdy. Hairiba wafam asina sokpadagi, respondent na mahak asi lairaba mesak amane aduga booth dagi fanglakpa peisa khara na magi emung manung pujabani hairaduna Advisor to the Administrator, Chandigarh gi mang da revision tharame. Hairiba revision asida respondent na thajaba pikhi madudi mangonda khudongchaba pibiba taragadi, awatpa senfam pumnamak thigane . Advisor to the Administrator, Chandigarh na tarik 22.10.2008 takheba order matung inna Respondent da pifam thokpa matam pikhiba tarabasu mahakna thidokfam thokpa senfam adu thidokheday, maram asi piraduna revision adu kakhe.

6. Pendabadagi, respondent na CWP No.19200 of 2018 writ petition oina High Court da tharame amadi hairiba asibu High Court gi shingnaraklaba order aduna yarame. High Court na takheba rai aduna hai madudi 1996 da booth adu bharada sanba matam da booth ki apunba senfam adu Rs.70,500/- oirami amadi houjikfaobada respondent na Rs,1,02,000/- thikhray amadi tarik 10/11/2008 da takheba order gi matung inna respondent na Rs.40,000/- amasu High Court da

pisinkhray. High Court na Respondent da mahak na thifam thokpa senfam adu thibagi ahenbakhudong chaba amasu pibagi mathow tai haina haikhe aduga magonda senfam pithokpagi pifam thokpa khudng chaba kaya pikhray haina hairaduna case asibu hekta loisinba yady haina haikhi. High Court na Respondent gi writ petition adubu yaraduna mahakna thikheba Rs.40,000/- adubusu masada hanbiraduna mahakna bhara da loukheba booth aduge thifam thokpa senfam thidoknaba hotnabda mateng oijasanu haina haikhe. Hairiba order asina soklakpadagi, Chandigarh Administration na appeal asi thakhebane.

7. Makei animaki Khang heiraba ukil singbu eikhoi na tarae amadi shingnaraklaba order amadi chejanda leiba potlam khuding busu kupna yenglae.

8. Chejan dagi urae madudi commercial booth No.254, Sector-20D, Chandigarh asi respondent da tarik 26.12.1996 da bhara da sanbagi ayaba pikhebane. Maduda yanakheba warol amadi maong gi matung inna, appellant na bhara loubu oibana mahakna lemhouriba 75% gi senfam bu thigatkadaba senfam gi machit ahum da yenthokladuna chahi ahum gi manungda pisinba loinana lakadaba senthoi amadi chahi gi oiba bhara sing bu pisinba haina yaori. Tarikh 25.12.1997, 25.12.1998 amadi 25.12.1999 da thigadba ahanba, anisuba amadi ahumsuba thigadaba senfam gi machit loinana thigadba bhara respondent na thiba ngamkhide. Tarikh 20/08/2008 da takheba order da Chief Administrator, Chandigarh na pankhibadouna respondent da yamdrabada 26 rak khudongchaba piraba faobada pisinfam thokpa senfam pisinbada ngamkhiday. Karbar peisa putthei haiduna tarik 25.12.1997, 25.12.1998 and 25.12.1999 da pigadba bhara gi peisa amadi mafam gi bhara pidabadi yady.

9. High Court na *Teri Oat Estates (P) Ltd. v. U.T., Chandigarh and Others (2004) 2SCC130* gi mateng louraduna respondent da bhara sanba tokpana awaba piragane haikhi amadi thidokfam thokpa senfam thidoknabagi ahenba khudong chaba amaga pigadabani hairami. *Teri Oat Estates* case da respondent na hana thigadaba senfam machit thirami aduga court ta wathok adu loisindringei da respondent singadaba senfam adugi yamlaba saruk ama senthoi 12% amaga loinana thirami. Hairiba wari amadi maong asi Teri Oat Estates da oiraduna, Supreme Court na lam amadi yum halaga loubana parties singda yamna awaba pigane maduna maram oiraga tarai-tarai asigumbasi touroidbane haina haikhi. Chanaba khal ama thamnaba gidamakta, supreme court na *Teri Oat Estates* da doctrine of proportionality sijinafam thoke haikhi.

10. Houjik gi case asida bharada piraklaba tungda respondent na ahanbagi senfam khakta thirame aduga espondent na masa da khudongchaba mayam piraba faobada tarik 25.12.1997, 21.12.1998 amadi 25.12.1999 asida thifam thokpa ahanba,

anisuba amadi ahumsuba thifam thkopa selgi machit sing ga loinana mafam aduge bhara thiramday. Respondent na hanjin hanjin senfam/thigadaba senfam gi machit sing thibada soiraklaba dadi matik leiba authority na mahaki mathakta ain gi oiba thabak loukhatpa yakhe. Pifam thokpa senfam du 2015 da Rs.26 lakhs ki mathak ta leiraklaba matamda, Appellant Administration bu 1996 da chatnakheba mamal louraga lamga khaidoknou haiba yaroi. Respondent na soikheba pumnamak udabida High Court na bhara da sandokpa tokpagi order bu kakhiba amadi Respondent bu thifam thokpa senfam thidoku haikhebadu adu achumba oiday. Bhara da sanduna pikhhiba adu 1996 da oibana , respondent na matam duda chatnakheba mamal da thinaba taksinbadi yady.

11. Tarikh 26/07/2012 da High Court gi shingnaraklaba order tabafaobada respondent na supnagi Rs. 1,02,000/- thikherame. Chief Administrator, Chandigarh na tarikh 20.08.2008 da taba order da ubadouna, respondent na Estate officer gi mangda awatpa senfam thidoknaba thourang leire haina jaban pikhiba tarabasu senfam adu thidokhidri. Court asigi tarik 26.03.2019 da thokheba order gi matung inna, respondent na Rs.1,50,000/- Chandigarh Administration da pikherame. Senthoi amadi mafam gi bhara oina Rs.1,91,114/- amadi service tax oina Rs 2735/- thigadaba watli haina khang heiraba appellants sing gi ukil na Court asina hairkapgi matung inna affidavit oina pisilami. Tarikh 19.08.2015 da pisinkheba affidavit da collector mamal da pabada matam aduda da booth adugi mamal ashi Rs.26,35,772/- amadi Rs.48,576/- (semsabagi mamal) oiraga apunba adu Rs.26,84,348/- oi haina haikhi. Court asina makha tana pirakpa yaathang gi matung inna, khang heiraba Chandigarh Administration gi damak lepiriba ukil na thamkhe madudi 2010 da leukheba booth gi mamal adu Rs.12,77,950/- oikhe.

12. Respondent da bhara sanbagi ayaba adu 1996 da oibana amadi mahakna houjikfaobada Rs.1,02,000/- asi pisinkhebana maram oiraga respondent da houjik chatnariba mamal da booth gi peisa thinaba haibadi maram chady. Appellant Administration amadi respondent-allottee anigi yaifanaba gi khal ama puraknabgi damakta amadi achumba wayelgi yenglaga 2010 da chatnakheba mamal adu chatnabana maram chai. Leiriba wari amadi maong yengladuna amadi respondent na houjikfaobada Rs.1,02,000/- pisinkhre haibasi yengalaga, respondent da 2010 da chatnakheba mamal haibadi Rs.12,77,950/- thiyu haibasi eikhoina maram chai haina loue. Khang heiraba respondent gi ukil na lamgi khajana yaona na respondent na Rs.2,72,969/- houjikfaobada da thikhry haina haikhe. Respondent na chahi kaya booth adugi kansinduna kanaba lourga leirakpana maram oiraga mahakna thikheba lamgi khajana adu mahakna thifam thokpa senfam da pasinfam thokty. Respondent na Rs.10,25,950/- (haibadi Rs.12,77,950/- dagi Rs.2,52,000/- respondent na hana thikhraba senfam adu khaidoklaga) thigadbane.

13. Fal oina High Court na takheba shingnaraklaba order adu kaklay amadi appeal asi yare. Respondent da Rs.10,25,950/- (Rs.12,77,950/- dagi Rs.2,52,000/- khaidokaga) thinabagi damak tha 6 gi matam pirae. Hairiba senfam asi thiraba matam da appellant-Administration na respondent da bhara salaga pibadu yare haina lougani amasung respondent da achangba shel puthokhalaga magi mingda darkar leiba kagaj sing semgani. Respondent na kari gumba tha 6 gi manung da senfam adu pisindaba tarabadi Administration na respondent gi mathakta aingi mateng matung inna tanthoknaba thabak paikhatpa yagani. Masigi order asi case ashigi top-topa wari amadi maong sing yenglaga tabane amadi masi bu atopa wathok amada manaba wathok ama oina panduna shijinaba yaroi.

Ankit Gyan

Appeal yare