

RCT ARCT 85/25

PINKY SOOD Vs. BRIJ BEHARI SHARAN THROUGH LR

17.10.2025

Present : Sh. Abhishek Sharma, Ld. Counsel for the appellant.
Ms. Poonam, Ld. Counsels for LR of respondent
Brij Behari Sharma.

TCR received.

Heard arguments and perused the record.

The present appeal has been preferred challenging the order dated 07.07.2025 whereby the Ld. ARC has decided the application u/s 151 CPC moved by Ms. Pinky Sood (hereinafter referred as respondent/appellant) in the eviction petition filed by Brij Behari Sharan (through LR) (hereinafter referred as petitioner/respondent).

In the application, the appellant has alleged that the property falls in the slum area and hence the eviction petition is barred under Section 19 of the Slum Areas (Improvement and Clearance) Act, 1956. After hearing the arguments, Ld. ARC has observed that it is a matter of trial as to whether the property in question falls within the scope of Slum Areas (Improvement and Clearance) Act, 1956 and also observed that the appellant herein is at liberty to prove this fact at the stage of leading respondent's evidence. Aggrieved by the order, the present appeal has been preferred.

Ld. Counsel for the appellant has placed reliance upon the book authored by Hon'ble Ms. Justice Sangeeta Sehgal Dhingra, Hon'ble High Court of Delhi and also that Ld. ARC-02

in the similar facts has held that the property falls in the slum area and therefore, the Court shall also decide that the property falls in slum area.

Ld. Counsel for the petitioner/respondent opposed the same and submitted that it is a question of fact and has to be proved and established that the property falls in slum. Ld. Counsel submitted that some area was excluded from the provisions of Slum Areas (Improvement and Clearance) Act, 1956 on 01.01.1960 and this property also falls in that area which has been excluded. Ld. Counsel submitted that even otherwise, the Trial Court has already given liberty to the appellant herein to lead evidence to prove this fact. So far as the book or the judgment of the other Court is concerned that will not establish the fact. Therefore, it is necessary that evidence to prove this fact be adduced. Ld. Counsel submitted that the Ld. Trial Court has rightly observed. It is prayed that there is no merit in the appeal, same be dismissed.

After hearing the arguments and going through the record, I found that whether a particular property is falling within the slum area is a question of fact. There are certain areas which are completely covered under the Slum Act and hence, protection under Section 19 of the Slum Areas (Improvement and Clearance) Act, 1956 is attracted. But, here the question is whether the particular building falls within that area or not. The appellant herein claims that it falls in the slum area, but the respondent claims that it has been excluded from the slum area on 01.01.1960. Now, this issue can be decided only after the

evidence is taken whether the property in dispute falls in the slum area or is excluded.

Keeping in view these facts, in my opinion Ld. Trial Court has rightly observed that let the respondent/appellant herein lead the evidence on this aspect. It is important to note here that Ld. Trial Court has not closed the chapter and has given opportunity to the appellant herein to lead evidence on this aspect, hence I do not find any merit in the appeal. Same is dismissed. Appellant may lead evidence on this aspect, as already observed by Ld. Trial Court.

TCR be sent back with copy of the order.

Appeal file be consigned to record room.

(Virender Kumar Bansal)
Principal District & Sessions Judge (Central)
Delhi/17.10.2025_(D)