

CASE NO.:
Appeal (civil) 5091 of 2004

PETITIONER:
LT. GOVERNOR & ORS.

RESPONDENT:
SHIV CHANDER MORE & ORS.

DATE OF JUDGMENT: 09/04/2008

BENCH:
DR. ARIJIT PASAYAT & P. SATHASIVAM & AFTAB ALAM

JUDGMENT:
JUDGMENT

DR. ARIJIT PASAYAT, J.

CIVIL APPEAL NO.5091 OF 2004.

1. Heard learned counsel for the parties.

2. We find the approach of the High Court, (both learned Single Judge and the Division Bench), to be erroneous. It is conceded by learned counsel for the respondent that the representation made on 05.05.2000 by Shiv Chander More was for a fresh grant of license. The Ltd. Governor found and, in our view, rightly, that a second renewal was not permissible referring to a judgment of this Court in Ratan Kaur Vs. Union of India (1997 (10) SCC 61). The order was challenged before learned Single Judge. Strangely, though learned Single Judge held that the decision was applicable but nevertheless granted relief to the respondent. The matter was carried in appeal before the Division Bench by the Lt. Governor, the Deputy Commissioner and the Tahsildar. Peculiarly, the Division Bench found that the decision in Ratan Kaur's case (supra) to be not applicable to the facts and circumstances of the case. Once learned Single Judge held that the decision was applicable, it was not open to the Division Bench to take a different view without even indicating any distinguishing feature. However, Mr. Vijay Hansaria, learned senior counsel appearing for respondent Nos.1 to 4 submitted that the representation did not reflect the correct state of affairs, and in fact, what was being objected to was the action for eviction. That matter was never projected before the Lt. Governor and, as noted above, the prayer was for renewal. The order of the Lt. Governor, therefore, was legal and proper and the High Court should not have interfered with it. If the respondent

has any remedy, as claimed, other than seeking fresh grant and/or renewal, that did not fall for consideration in the representation before the Lt. Governor and the High Court. We express no opinion in that regard.

3. The appeal is allowed to the aforesaid extent without any order as to costs.

CIVIL APPEAL NO. 5092 OF 2004

In view of the judgment in Civil Appeal No.5091 of 2004, this appeal is allowed.