

Sohan Pal vs.d.d.A.

Sohan Pal vs.d.d.A.

SooperKanoon Citation : sooperkanoon.com/1220407

Court : Delhi

Decided On : Jan-08-2019

Appellant : Sohan Pal

Respondent : d.d.A.

Judgement :

* % + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

8. h January, 2019 LPA12019 & CM. Nos. 3/2019, 4/2019 and 5/2019 SOHAN PAL Appellant Through: Mr. Kamlesh Kumar Mishra and Mr. Rahul Kumar, Adv. versus Through: Mr. Arjun Pant, Adv. Respondent D.D.A. AND + LPA22019 & CM. Nos. 26/2019, 27/2019 and 28/2019 BALJIT Appellant Through: Mr. Kamlesh Kumar Mishra and Mr. Rahul Kumar, Adv. versus D. D. A. (DELHI DEVELOPMENT AUTHORITY) Through: Mr. Dhanesh Relan, Standing Counsel Respondent with Ms. Komal Sorout, Adv. AND + LPA32019 & CM. Nos. 29/2019, 30/2019 and 31/2019 MAHENDER SINGH Appellant Through: Mr. Kamlesh Kumar Mishra and Mr. Rahul Kumar, Adv. versus D. D. A. (DELHI DEVELOPMENT AUTHORITY) Through: Mr. Dhanesh Relan, Standing Counsel Respondent AND + LPA42019 & CM. Nos. 32/2019, 33/2019 and 34/2019 with Ms. Komal Sorout, Adv. MADAN LAL Appellant Through: Mr. Kamlesh Kumar Mishra and LPA. No.1/2019 and connected matters Page 1 of 5 Mr. Rahul Kumar, Adv. versus D. D. A. (DELHI DEVELOPMENT AUTHORITY) Through: Mr. Dhanesh Relan, Standing Counsel Respondent with Ms. Komal Sorout, Adv. CORAM: HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE V.

KAMESWAR RAO V. KAMESWAR RAO, J.

(ORAL) CM. No.5/2019 in LPA No.1/2019 CM. No.28/2019 in LPA No.2/2019 CM. No.31/2019 in LPA No.3/2019 CM. No.34/2019 in LPA No.4/2019 Exemptions allowed subject to all just exception. Applications stand disposed of. CM. No.4/2019 in LPA No.1/2019 CM. No.27/2019 in LPA No.2/2019 CM. No.30/2019 in LPA No.3/2019 CM. No.33/2019 in LPA No.4/2019 These applications have been filed by the appellants seeking condonation of delay in filing the appeals. For the reasons stated in the applications delay in filing the appeals is condoned. Applications stand disposed of. LPA12019 LPA22019 LPA32019 LPA42019 1. These four appeals have been filed by the appellants challenging common orders dated 9th August, 2018 and 9th September, 2018 passed by the learned Single Judge in four different writ petitions being W.P.(C) Nos. 9222/2017 (filed by appellant Sohan Pal), W.P.(C) 10574/2017 (filed by LPA. No.1/2019 and connected matters Page 2 of 5 appellant Madan Lal) and W.P.(C) 10582/2017 (filed by appellant Baljit) and W.P.(C) 10588/2017 (filed by appellant Mahender Singh) and in CM. No.36623/2018 in W.P.(C)9222/2017, CM. No.36728/2018 in W.P.(C) 10574/2018, CM. No.36624/2018 in W.P.(C) 10582/2017 and CM. No.36625/2018 in W.P.(C) 10588/2017, whereby the learned Single Judge has dismissed the writ petitions and also dismissed the applications of the appellants for modification of order dated 9th August, 2018.

2. The only submission made by Mr. Kamlesh Kumar Mishra, learned counsel appearing for the appellants is that order dated 9th August, 2018 came to be passed in the presence of Mr. Sanjay Baniwal, Advocate who was the proxy counsel for him. His appearance was only to seek a pass over. He also states that the modification applications were primarily filed by the appellants to contend that they are ready to file an undertaking that they shall vacate the property in question by 31st December, 2019 in terms of the order of the Supreme Court in SLP No.5253/2018 dated 20th March, 2018. Mr. Mishra states, the Id. Single Judge should have allowed the CMs. as no prejudice is going to be caused to the respondents if the appellants are allowed to vacate the properties by that date.

3. Mr. Dhanesh Relan, learned standing counsel appearing for the respondent / DDA opposes the prayer on the ground that in a subsequent LPA. No.1/2019 and connected matters Page 3 of 5 order dated 10th August, 2018, the Supreme Court on noting that the petitioners therein have not sought for any time to file their undertakings till that date had recalled the order dated 20th March, 2018 (referred above). Similarly in these writ petitions also a categorical stand was taken by the learned counsel for the appellants that they do not want to withdraw the petitions and also do not want to avail the time to vacate the premises as has been granted to other persons similarly placed. The writ petitions were heard. According to him, it was this conduct of the appellants which was noted by the learned Single Judge while rejecting the applications. He states no indulgence should be shown to the appellants.

4. Having considered the rival pleas taken by the learned counsel for the parties and on perusal of the orders passed by the Supreme Court wherein in the order dated 10th August, 2018, the Supreme Court has noted that the petitioners therein have not asked for further time to vacate the properties till that date had recalled the order dated 20th March, 2018 qua those petitioners. In the case in hand, even assuming that the appellants have expressed themselves that they have no desire to give an undertaking but in the applications filed subsequently, they have expressed themselves for filing an undertaking to vacate the properties by 31st December, 2019, their prayer should have been granted. We are of the view that on the appellants filing an LPA. No.1/2019 and connected matters Page 4 of 5 undertaking before this court within one week from today (by giving a copy to Mr. Relan) that they shall vacate the properties on or before 31st December, 2019, they shall be allowed to continue. It is made clear that this order is passed with respect to the appellants before this court and shall not enure to the benefit of any other person. It is also made clear that if undertakings are not filed within one week from the date of receipt of the copy of the order, then the said undertaking shall not be taken on record and this order shall be deemed to have been vacated. The appeals are disposed of. CM. No.3/2019 in LPA No.1/2019 CM. No.26/2019 in LPA No.2/2019 CM. No.29/2019 in LPA No.3/2019 CM. No.32/2019 in LPA No.4/2019 Dismissed as infructuous. V. KAMESWAR RAO, J JANUARY08 2019/jg CHIEF JUSTICE LPA. No.1/2019 and connected matters Page 5 of 5

