

Sudama Singh and Ors. Vs. Mr Deepak Mohan Spolia and Ors

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Court : Delhi

Decided On : Dec-16-2014

Judge : V.K.Shali

Appellant : Sudama Singh and Ors.

Respondent : Mr Deepak Mohan Spolia and Ors

Advocate for Pet/Ap. : Mr. Ramesh K. Mishra, Mr. Syed Musaib, Ms. Zubeda Begum, Ms. Sana Ansari, Ms. Mini Pushkarna, Ms. Namrata Mukim, Ms. Yoothica Pallavi, Mr. Parvinder Chauhan, Mr. Abhilash Vashisht

Judgement :

* + HIGH COURT OF DELHI AT NEW DELHI Cont. Cas (C) No.884/2013 & C.M. No.5530/2014 Decided on :

16. h December, 2014 SUDAMA SINGH & ORS. Petitioners Through: Mr. Ramesh K. Mishra & Mr. Syed Musaib, Advocates. Versus MR DEEPAK MOHAN SPOLIA & ORS Respondents Through: Ms. Zubeda Begum, SC with Ms. Sana Ansari, Advocate for R-1. Ms. Mini Pushkarna, SC with Ms. Namrata Mukim & Ms. Yoothica Pallavi, Advocates for R-2/SDMC. Mr. Parvinder Chauhan, SC with Mr. Abhilash Vashisht, Advocate for R-3/DUSIB. WITH + Cont. Cas (C) No.821/2014 MAYA DEVI & ORS Through: Petitioners Mr. Ramesh K. Mishra & Mr. Syed Musaib, Advocates. Versus MR DEEPAK MOHAN SPOLIA & ORS Respondents Through: Ms. Zubeda Begum, SC with Ms. Sana Ansari, Advocate for R-1. Ms.

Mini Pushkarna, SC with Ms. Namrata Mukim & Ms. Yoothica Pallavi, Advocates for R-2/SDMC. Mr. Parvinder Chauhan, SC with Mr. Abhilash Vashisht, Advocate for R-3/DUSIB. CORAM: HONBLE MR. JUSTICE V.K. SHALI V.K. SHALI, J.

(ORAL) 1. The present contempt petition bearing No.884/2013 has been initiated by petitioners respondent on account of the alleged wilful disobedience of the judgment dated 11.2.2010.

2. The contention of the learned counsel for the petitioners is that by virtue of the aforesaid judgment, following directions were given by the Division Bench of this court for compliance :

62. It is declared that : (i) The decision of the respondents holding that the petitioners are on the Right of Way and are, therefore, no entitled to relocation, is hereby declared as illegal and unconstitutional. (ii) In terms of the extant policy for relocation of jhuggi dwellers, which is operational in view of the orders of the Supreme Court, the cases of the petitioners will be considered for relocation. (iii) Within a period of four months from today, each of those eligible among the petitioners, in terms of the above relocation policy, will be granted an alternative site as per MPD-2021 subject to proof of residence prior to cut-off date. This will happen in consultation with each of them in a meaningful manner, as indicated in this judgment. (iv) 3. The State agencies will ensure that basic civic amenities, consistent with the rights to life and dignity of each of the citizens in the jhuggies, are available at the side of relocation.

It is contended that pursuant to the aforesaid directions, the respondents were to relocate not only the petitioners but also other persons living in the jhuggi cluster, whose names and details were given in annexures attached to the writ petition. A copy of the writ petition has been annexed along with the contempt petition and it shows that names of nearly 147 persons were given therein, who are stated to have been not relocated and thus, there is a wilful disobedience of the directions passed by the court.

4. The learned counsel for the respondents has contended that so far as the present contempt petition is concerned, the same is not maintainable on the

ground that it is barred by limitation. In this regard, it has been contended that the order in question is dated 11.2.2010 while as the contempt has been filed only on 18.11.2013, that is, after expiry of more than three years. It is contended that the respondents had preferred a Special Leave Petition in which stay was granted only on 5.1.2012 and before the grant of stay, the petitioners could have filed a contempt petition as nothing precluded them from filing such a petition.

5. The learned counsel for the petitioners has stated that although the stay might have been granted on 5.1.2012 but the special leave petition was filed much earlier than that and it got dismissed only on 31.7.2013 and thus, the cause of action to file the contempt arose only after 31.8.2013 while as the contempt petition has been filed immediately thereafter. In any case, it is contended by the learned counsel for the petitioners that it is a continuing cause of action and, therefore, cannot be defeated by taking a too technical plea by the respondents.

6. I have considered this plea of limitation raised by the respondents. I do not agree with the learned counsel for the respondents that the petition is barred by limitation. This is on account of the fact that the Special Leave Petition has been filed immediately after 3-4 months of the disposal of the writ petition by the Division Bench and the petitioners were well within their right to wait for the outcome of the said SLP and initiate an action for contempt only after dismissal of their SLP. If seen in this context, the present contempt petition is within limitation of one year and cannot be thrown out on this technical ground.

7. The second contention of the learned counsel for the petitioners is that the names of the persons, who may not be petitioners but whose names are given in the annexures, have not been considered.

8. In reply, the learned counsel for the respondents has contended that the respondents was only to consider the case of the petitioners, who were four in number out of which three have been found to be eligible. The learned counsel has contended that if one sees paragraphs 1 and 2 of the petition, the Division Bench in its order has made a distinction between the petitioners and the persons whom they represent. Although it has taken the note of the fact that the petitioners were representing other persons interested in the litigation but the court, while

passing the order, has specifically confined the exercise of relocation of the jhuggi dwellers only to the extent of petitioners in the writ petition, which has been done.

9. Last but not the least, the learned counsel for the respondents has contended that even if the order dated 11.2.2010 is taken in its logical conclusion, even then it gives an ambiguous interpretation. It is reasonably possible that the court intended the allotment to be made only to the petitioners and not to the other persons.

10. If there are two interpretations, which are possible on account of the ambiguous language or on account of order not worded in an unambiguous manner then in case the respondents follows one of the two interpretations, it cannot be accused of contempt.

11. This has not been contested by the learned counsel for the petitioners, who has contended that if there was any ambiguity, it was open to the respondents to have approached the court and sought clarification rather than taking this plea before this court.

12. I have carefully considered the submissions made by the respective sides. I have also gone through the record. In my considered opinion, no doubt there were two sets of persons and the writ petition was filed in the nature of public interest litigation. This is evident from para 1 of the judgment where the court has taken note of the petitioners and the persons to whom they represent but while giving the benefit, it has confined the said benefit only to the petitioners and not other persons. This clearly shows that the court intended to draw a distinction between the petitioners and the non-petitioners, whose names are given to the court as annexures to the writ petition.

13. In my view the use of the word petitioners confines this benefit only to the four petitioners and not to any other person even though the petitioners may intend to refer to the same. Moreover, none of the persons, whose names are mentioned in the list, have come forward to raise a grievance that they have not been considered or allotted an alternative accommodation.

14. In the light of the aforesaid fact, I feel that the present contempt petition is totally misconceived and accordingly, the same deserves to be dismissed.

15. The other contempt petition bearing No.821/2014 is also premised on the same lines seeking action for alleged violation of the order dated 11.2.2010, which is similarly worded. Since reasons have been given while dismissing the contempt petition No.884/2013, the said reasoning would be equally applicable to the facts of the present contempt petition also.

16. Accordingly, both the contempt petitions are dismissed and the contempt notice is discharged. V.K. SHALI, J.

DECEMBER16 2014/AA

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