

**Bharal Singh Vs. Vice Chairman, Delhi Development Authority and ors.**

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**Court :** Delhi

**Decided On :** Jul-29-1987

**Reported in :** 1988(14)DRJ27

**Judge :** H.C. Goel, J.

**Acts :** [Code of Civil Procedure \(CPC\), 1908](#) - Order 39, Rule 2A

**Appeal No. :** Contempt Civil Petition No. 85 of 1986

**Appellant :** Bharal Singh

**Respondent :** Vice Chairman, Delhi Development Authority and ors.

**Advocate for Pet/Ap. :** O.P. Tyagi,; B.I. Singh,; P.N. Talwar and;

**Judgement :**

**H.C. Goel, J.**

(1) This is a petition by the petitioners for taking action' under the Contempt of Courts Act against Shri Prem Kumar, Vice-Chairman Delhi Development Authority (for short 'the DDA') and two other officers of the Dda who are respondents 2 and 3, and also against three officers of the Municipal Corporation of Delhi, being respondents 4 to 6. The petitioners, case is that they are the owners of the land measuring 16 biswas, being part of Khasra No. 616/376/2, situated in village Chowkri Mubarakbad, Delhi, since 1961 and they had made certain construction

thereon. According to them this property was being used by them for residential-cum-commercial purposes and it is assessed to property tax and is entered in the municipal records as property No. 652/1B, Zakhira Chowk, New Rolitak Road, Delhi. In Suit No. 19/69 of the court of Shri P.K. Verma, Sub Judge 1st Class, Delhi, a decree of permanent injunction was passed on January 22, 1974 in; favor of the petitioners against the Municipal Corporation of Delhi restraining them from demolishing any portion of the property No. 652/IB, New Rohiak Road, near Zakhira Chowk, Delhi, forming part of Khasra No. 601/ 376, village Chowkri Mubarakbad, Delhi, otherwise than after serving a fresh notice on the petitioners and after compliance with the other requirements of law. Another suit was later filed by the petitioners against the Dda in the court of Shri S.L. Khanna, Sub Judge 1st Class, Delhi. In that suit Mr. S.D. Sharma Advocate, counsel for the Dda, stated before the court that the suit land did not vest in the Dda, nor any action for demolition or dispossession of the plaintiffs/petitioners had been initiated. It was further stated by Mr. Sharma that in case the Dda proceeded to take any action in the matter that shall be done in accordance with the procedure as laid down bylaw. The petitioners thereafter filed two suits, being Suit No. 681/84 and 682/84, in the court of Smt. R. Kirannath, Sub Judge, Delhi against the Dda and the Municipal Corporation of Delhi. One of these suits relates to property No. 652/IB and the other relates to property No. 652/1 Ba situated at village Chowkri Mubarakbad, Delhi. In both these suits a temporary injunction was granted in favor of the plaintiffs and against the Dda and the Municipal Corporation of Delhi directing the parties to maintain status quo in respect of the suit property. It is alleged by the petitioners that on may 3, 1986 respondents No. 2, 3, 5 and 6 came to the property of the petitioners Along with a bulldozer belonging to one Dalel Singh and they started demolishing the suit property of the petitioners and continued the demolition action right up to May 21, 1986 on which the application was drafted and later presented to this Court. It is stated that the said officers of the two authorities have got demolished substantially the entire property of the petitioners and the bulldozer was busy in breaking the bricks, mortar and the moulds and the malba which were lying at the site when the above petition was drafted and presented to the Court. On these facts it has been prayed that action for contempt of Court be taken against them.

(2) Notice to show cause as to why action for contempt of Court be not taken against the respondents was served on respondents No. 1 to 6. Respondent No. 2 and 3 who are the officers of the Dda have filed counter-affidavits to the affidavit of the petitioners wherein they denied the allegations of the petitioners regarding the alleged demolition action having been taken by them. They stated to the effect that neither the Dda took any demolition action, as alleged nor they have been a party to any such action. Respondents No. 4 to 6 filed a detailed reply to the petition. All the three officers of the Municipal Corporation of Delhi i.e. respondents No. 4 to 6 have also filed their individual affidavits controverting the allegations made in the petition.

(3) Now the petitioners in para 18 of their petition have themselves stated that they have filed petitions for punishment of respondents for their dis-obedience of the injunction order granted in the said suits i.e.. Suit Nos. 681 and 682 of 1984 pending in the court of Smt. R. Kirannath, Sub Judge, Delhi (now being presided over by Shri A.S. Yadav, Sub-Judge, Delhi). That court is obviously seized of the entire matter. It is only proper that the question as to whether the respondents or any of them has or has not contravened the temporary injunction issued by that court can be properly and effectively gone into by that court. In my opinion, in such a situation it is neither necessary, nor desirable to decide the question by this Court separately as to whether the respondents or any of them has committed contempt of Court for the alleged violation of the aforesaid injunction order. It was submitted by Mr. Tyagi, Id. counsel for the petitioners, that respondents No, 1 to 3 have committed the contempt of Court not only for their having violated the said injunction order, but also because of their having violated the undertaking given by the counsel for the Dda in the suit i.e. Suit No. 42/77 of the court of Shri S.L. Khanna, Sub Judge 1st Class, Delhi and that for that a separate petition for contempt is maintainable in this Court and that this petition should, therefore be dealt with separately besides the application under Order 39, Rule 2A of the Code of Civil Procedure as moved by the petitioners to the court of Smt. R. Kirannath. It has also been stated by Shri Tyagi that so far as respondents 4 to 6, the officers of the Municipal Corporation of Delhi, are concerned, they are also liable to be proceeded for contempt of Court by this Court separately apart from being proceeded against on the application under Order 39, Rule 2A for their having

violated the terms of the decree as passed against them in Suit No. 19/69 of the court of Shri K.P. Verma, Sub-Judge 1st Class, Delhi. As pointed out by me above, the court of Smt. R. Kirannath is seized of the entire matter in controversy between the parties as per the latest position as prevailing between the parties and the only proper course is that the question of contempt of Court having been committed by any of the respondents be dealt with by that court alone in the application under Order 39, Rule 2A of the Code of Civil Procedure as moved by the petitioners. The mere fact that the Dda and the Municipal Corporation of Delhi had earlier also given the aforesaid undertaking to the court of Shri S.L. Khanna, Sub Judge, Delhi, in my opinion, is not such a circumstance because of which this Court must also separately hold the contempt proceedings against respondents 1 to 6 as prayed for by the petitioners.

(4) Mr. Tyagi submitted that Mr. A.S. Yadav, Sub-Judge, Delhi, is proceeding with the application of the petitioners under Order 39, Rule 2A of the Code of Civil Procedure very slowly. None of the respondents has filed reply to the said application before the said court and that direction be given to that court to expedite disposal of the said application. I need hardly say that the court should deal with the matter concerning the contempt of court expeditiously. The court of Mr. A.S. Yadav, Sub Judge, Delhi shall accordingly deal with the said application of the petitioners expeditiously. He shall obtain the reply of the respondents to the said application within three weeks from today and shall then dispose of the application finally as early as possible. The parties are directed to appear before the court of Mr. A.S. Yadav, Sub Judge, Delhi on August 14, 1987. With the said observations the petition is dismissed.