

Ram Chand Verma Vs. Delhi Development Authority and ors.

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Court : Delhi

Decided On : Apr-28-1997

Reported in : 1997IVAD(Delhi)161; 68(1997)DLT198

Judge : M.S.A. Siddiqui, J.

Acts : [Constitution of India](#) - Article 226; Contempt of Court Act, 1971 - Sections 12

Appeal No. : Contempt Civil Petition No. 10 of 1989

Appellant : Ram Chand Verma

Respondent : Delhi Development Authority and ors.

Advocate for Pet/Ap. : N.S. Safaya,; Ravinder Sethi and; Abhilesh Verma, Advs

Judgement :

M.S.A. Siddiqui, J.

(1) The petitioner was allotted plot No. 111, Block E, in Malviya Nagar Extension Residential Scheme, New Delhi. Thereafter the respondent No. 1 cancelled the allotment arbitrarily. Aggrieved by the said action the petitioner filed a writ petition under Article 226. On 27.5.1981 the petitioner obtained a stay order from this Court against cancellation and dispossession. It is alleged that inspire of the stay order the respondent Nos. 1 to 3 allotted the said plot to the respondent No. 5 who

had in turn transferred the same to the respondent No. 4. It is further alleged that the respondents have contumaciously disobeyed the stay order dated 27th May, 1981 by allotting the plot to the respondent 5 and thus they are liable to be punished under Section 12 of the Contempt of Courts Act.

(2) On this petition a Rule was issued by this Court on 8.2.1989 calling upon the respondents to show cause why they should not be dealt with for contempt for the alleged violation of the Court's Order dated 27.5.1981 in Cwp 1273/81. In response to the Rule issued on the respondents, the respondents 1 to 3 have shown cause and have taken up the plea that the Court's order dated 27.5.1981 was not communicated to them. It is further alleged that the allotment of the plot in question had already been cancelled vide letter No. F 27(64)79/LSB(R) dated 6.5.1981 and thus by the time the stay order was passed on 27.5.81 the petitioner's allotment had already been cancelled and in such a situation no question of staying of the cancellation of the allotment arose. It is further alleged that after cancellation of the allotment, possession of the plot in question was also taken over by the respondent-DDA. It is, therefore, alleged that the respondent had not violated the order dated 27th May, 1991.

(3) Before a proceeding for contempt can succeed, it is of paramount importance to establish first, the service of the order of the Court said to have been disobeyed upon the person alleged to have committed contempt thereof. In view of the plea taken by the respondents that the alleged act of contempt was anterior to the date of the communication of the order, this Court on 24.1.1991 directed the respondent-DDA to inform about the name of the person in charge on whom the responsibility can be fixed. Pursuant to the said direction Shri O.P. Sharma, Deputy Cl (Lands), Delhi Development Authority filed his affidavit fixing the responsibility on the Peshi Clerk Shri N.S. Gautam. Consequently, Shri Gautam was summoned and his statement was recorded on 1.8.95. He testified that the stay order in question was not received by him. Shri O.P. Sharma and Shri Rakesh Behari, Commissioner (Lands) Dda have stated in their affidavits that the said stay order was not communicated to the DDA. There is no reason to disbelieve their affidavits. Relying upon the affidavit of Shri Rakesh Behari and Shri O.P. Sharma, I find and hold that the stay order dated 27th May, 1981 was

not communicated to the respondents and on account of non communication of the stay order the plot No. 111, Block E, Malviya Nagar, Extension was transferred to respondent No. 4 in 1985.

(4) In this connection I may usefully excerpt the following observations of the Supreme Court in the case of *Debabrata Bandopadhyaya & Others v. The State of West Bengal*, : 1969 CriLJ401 :

'A question whether there is Contempt of Court or not is a serious one. The Court is both the accuser as well as the judge of the accusation. It behoves the Court to act with as great circumspection as possible leaving all allowance for errors of judgment and difficulties arising from inveterate practices in Courts and Tribunals. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemner must be punished.'

(5) In this case there is nothing from which I can infer that the respondents were ever aware of the stay order dated 27.5.81 passed in Cw 1273/81. Consequently, it cannot be held that the respondents had acted in breach of the said stay order. However, on 26.8.96 learned Counsel for the respondent-DDA made a statement before this Court that 'another plot bearing No. B-105, East of Kailash, New Delhi measuring 104.50 sq. meters has been reserved for the petitioner and the Dda will keep it available to the petitioner subject to the decision of the Writ Petition CWI'. 1273/81'.

(6) For the foregoing reasons, the contempt proceedings are dropped. Notices issued against the respondents are hereby discharged. Contempt proceedings quashed.

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