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Jagdish and ors. Vs. Dda and ors.

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Court : Delhi

Decided On : Nov-19-2004

Reported in : 115(2004)DLT391; 2005(79)DRJ37

Judge : Pradeep Nandrajog, J.

Acts : Public Premises (Eviction of Unauthorised Occupants) Act, 1971

Appeal No. : WP(C) No. 5060/2000 and Cont.Case(C) No. 536/2002

Appellant : Jagdish and ors.

Respondent : Dda and ors.

Advocate for Def. : J.M. Sabharwal, Sr. Adv. and ; Rajan Sabharwal, Adv.

Advocate for Pet/Ap. : A.K. Bajpai, Adv

Judgement :

Pradeep Nandrajog, J.

1. 9 writ petitioners have initiated a joint action by and under WP(C) No.5060/2000 praying that this court be pleased to:

'a) issue a Writ of Mandamus or any other appropriate writ directing the Respondents not to dispossess the Petitioners from the possession of their agricultural land, situated on the river bank (details shown in para 3 of the petition;

and

b) direct the Respondents not to destroy the standing crops of the petitioners and not raise any construction over the land occupied and in possession of the petitioner during the pendency of the Writ Petition.'

2. It is averred that Delhi Peasants Co-operative Multipurpose Society Ltd. was allotted 13,343 bigha and 3 biswa of land by Delhi Improvement Trust on the bank of river Yamuna. The society, in turn, parceled out land to its members. Being members of the soceity, petitioners were put in possession of the land detailed in para 3 of the petition.

3. In the year 1991, DDA as successor in interest of the Improvement Trust, initiated action for eviction of members of the society by resorting to proceedings under the Public Premises (Eviction of Unatuthorized Occupants) Act, 1971. The proceedings resulted in an eviction order dated 4.9.1991 being passed.

4. In appeals being filed by the individuals against whom eviction orders were passed, eviction order dated 4.9.1991 was set aside vide order dated 22.12.1993 with a direction that the society be imp leaded as a respondent and matter be decided afresh.

5. It is alleged that remanded proceedings are pending. Grievance is that DDA has allotted land in possession of the petitioners to a temple and on 30.8.2000 attempt was made by DDA to dispossess the petitioners.

6. Based on the pleadings aforesaid, prayer is made as noted in para 1 above.

7. defense of DDA is that land in question was leased for 5 years to Jheel Kuranja Milk Producers Co-operative society. Lease was extended up to 14.6.1966. Petitioners claim to be members of Delhi Peasants Cooperative Multipurpose Society and claim possession through it on the allegation that said society was allotted the land, a fact which is contrary to record. Being trespassers, DDA defends action taken for eviction of the petitioners.

8. On 14.9.2000, following interim order was passed:

'Present: Mr.A.K. Bajpai for the petitioner.

Mr.Sanjay Kishan Kaul, Sr.Advocate

with Mr.Amitabh Marwah for respondent/DDA.

CM 7939/2000 in CW 5060/2000

Notice.

Mr.Amitabh Marwah accepts notice.

Let complete set of paper book be supplied to counsel for the respondent.

Mr.Kaul says that counter affidavit shall be filed within four weeks. Let the rejoinder, if any, be filed within two weeks thereafter.

Mr.Kaul says that the petitioners, if they are in possession, shall only be evicted in accordance with law.

Renotify on 16.11.2000.

Sd/-

Vijender Jain, J.'

9. On 21.10.2002 following order was passed.

'Present: Mr.Sandeep Sethi with Mr.P.S.

Bindra for the petitioner.

Mr.Jagmohan Sabharwal, Sr. Advocate with Mr.S.K. Sabharwal for DDA.

CWs No.3364/2002, 1947/2002, 2939/2000 and 5060/2000

Learned counsel for the petitioner states that rejoinder had been filed. The same is not on record. Let the same be placed on record. With the consent of the parties, it is clarified that the interim order of status quo shall ensure to the benefit of the

petitioners and occupants in cases where the petitioners had sought impleadment.

Renotify on 14.1.2003.

Sd/-

Manmohan Sarin'

10. On 2.11.2002, officers of DDA dispossessed the petitioners. They filed Cont.Case No.536/2002 alleging violation of orders dated 14.9.2000 and 21.10.2002.

11. Response of DDA to the contempt petition is that WP(C) No.1947/2002 and WP(C) No.3364/2002 were filed by Jheel Kurenja Milk Producers Cooperative Society against specific orders passed by the estate officer rejecting application of the society seeking impleadment in eviction proceedings initiated by DDA against individual persons in possession of land indicated in the notices to them. Order dated 21.9.2002 was recorded in said two petitions and WP(C) No.5060/2000 as well. Since no application for impleadment by any society was filed in the proceedings initiated against the petitioners, order dated 21.9.2002 was understood as not operative qua the petitioners. Qua order dated 14.9.2000, it is stated that on 14.5.2002, 19.4.2002, 29.4.2002, 15.5.2002, 19.4.2002, 15.5.2002, 22.4.2002, 16.5.2002 and 8.12.2000 eviction orders were passed against the 9 petitioners respectively, which orders were not challenged. Since order dated 14.9.2000 required eviction of petitioners in accordance with law, petitioners were rightly evicted.

12. Only grievance of the petitioners as laid in the writ petition is that during the pendency of the eviction proceedings pending before the estate officer they could not be evicted by force. Grievance was justified. A statutory authority is expected to regain possession as per law more so when it has initiated action for eviction as per law. Vide interim order dated 14.9.2000 petitioners were protected.

13. Main relief which could be granted to the petitioners was to prohibit DDA from taking possession by force and directing that possession could be taken, if at all, as per the Public Premises (Eviction of Unauthorised Persons) Act 1971. To that

extent, interim order dated 14.9.2000 had the span of the final order which could be passed.

14. During the pendency of the writ petition, eviction orders were passed against the petitioners on various dates noted in para 11 above. There is no challenge to said orders. They have come final.

15. WP(C) No.5060/2000 is accordingly dismissed.

16. Cont.Case No.536/2002 is dismissed for the reason order dated 14.9.2000 prohibited DDA from evicting petitioners except by due process of law i.e. by and under the Public Premises (Eviction of Unauthorised Persons) Act 1971. Eviction of the petitioners is pursuant to orders of eviction being passed under said Act. Order dated 21.9.2002 was actually intended to operate in the writ petitions No.1947/2002 and 3364/2002 filed by Jheel Kurenja Milk Producers Cooperative Soceity. It got recorded in WP(C) No.5060/2000 as well. Be that as it may, said order was to operate only in such cases where Jheel Kurenja Milk Producers Cooperative Society had sought impleadment. In eviction proceedings against the petitioners said application has not been shown to be filed.

17. No costs.

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