

Ansar Ahmed and ors. Vs. Union of India (Uoi) and ors.

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Court : Delhi

Decided On : Dec-11-2002

Reported in : 2003(66)DRJ577

Judge : Manmohan Sarin, J.

Acts : Agra Tenancy Act

Appeal No. : CW No. 4734/2002 and CM 11707/2002

Appellant : Ansar Ahmed and ors.

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : A.K. Singhla, Adv. for respondent No. 4 and ; Ramesh Chandra, Sr. Adv., ;

Advocate for Pet/Ap. : O.P. Minocha, Adv

Disposition : Petition dismissed

Judgement :

Manmohan Sarin, J.

1. Rule.

With the consent of the parties, writ petition is taken up for disposal.

2. The petitioners numbering 47 have filed this writ petition seeking a writ of prohibition to restrain respondents 1 to 4 i.e. Union of India, N.C.T. of Delhi, DDA and Delhi Metro Rail Corporation Limited from interfering with their peaceful and actual physical possession of the lands in khasra No. 41(min) of Village Charaga Chomali, Shahdara, Delhi.

3. The case of the petitioners is that there are non-occupancy tenants and are protected from eviction by virtue of the provisions of the Agra Tenancy Act as applicable to Delhi. The writ petition had come up before the Court on 6th August, 2002, when learned counsel for the petitioners submitted that the petitioners had occupied their respective pieces of land/shops at the instance of respondents 5 to 9 who were stated to be the tenants of the land. The petitioners contended that they had occupied the respective lands and shops at the instance of respondents 5 to 9 and in view of the actual occupancy, petitioners also became the non-occupancy tenants and could not be summarily evicted. The grievance urged by the learned counsel for the petitioners was that the land in question was being taken for the DMRC Project. However, as a result of the orders passed in CW 55/78, the benefit of the relocation scheme of the NCT of Delhi for alternate lands/shops was being confined to the said respondents No. 5 to 9, while the petitioners were in actual possession. The directions given in the writ petition was to consider the case of the said petitioners in the writ petition.

4. The present petitioners also rely on an affidavit filed in CW 55/78, by the then Law Officer of the DMRC to the effect that the lands of respondents 5 to 9 and presently claimed to be occupied by the petitioners as their tenants, falls outside the orange dotted lines of the plan, annexed with the affidavit which depicted the land required for the DMRC Project. In view of this, vide order dated 6th August and 20th August, 2002 the petitioners' submission that the land in their possession was not required for DMRC Project was noted and it was directed that in case the land is not required by the DMRC they may not take possession of the same. The DMRC-respondent No. 4 thereupon moved an application being CM 11707/02 notice of which was given to the petitioner and reply thereto filed.

5. The respondent No. 4-DMRC have also filed an additional affidavit on 28th November, 2002 clarifying the circumstances in which the affidavit, on which reliance was placed by the petitioner, was filed. It is averred in the affidavit that the petitioners were seeking to take unfair advantage of the omission made in the earlier affidavit which had been filed for the purpose of giving status as to the works being carried out. It is stated that in the affidavit, the MRTC has only indicated the area required on one side of the road while the present plan, as filed, gives the complete area required for MRTC Project for the Seelampur Station. It is clarified that the land on which the petitioners khokhas/shops are built, is required for building and providing the Traffic Integration Facilities for the Seelampur MRTS Station, as shown in colour with the plan filed with the present affidavit. The respondent No. 4 has explained that the shops of the petitioners originally existed in the area where track embankment has been shown in the plan. When the track embankment was constructed, the shops/khokhas of petitioners and others were shifted towards the main road.

6. It is not the function of this Court to assess the correctness or otherwise of the requirements for the project of MRTS or to go into its finer details. Once the respondent No. 4 has explained that the land in question is required for the project facilities, such as building Traffic Integration Facilities, it is not for this Court to evaluate, assess or determine whether the requirement can be met by adjoining lands or otherwise.

7. The project in question is one of great public interest and national importance and significance for the community. The NCT of Delhi has a scheme for rehabilitation for those who are evicted on account of the acquisition of their lands for the project. In these circumstances, even if there has been an earlier omission or mistake on the part of the respondents to clearly delineate the exact requirements of lands, the respondent No. 4 cannot be made to suffer on that account.

8. There is yet another aspect which may be noticed. Mr. Ramesh Chandra, learned senior counsel appearing on behalf of respondents 5 to 9 disputes the relationship of landlord and tenant between the petitioner and the said

respondents. He questions the locus of the petitioners to file the petition. He submits that petitioners were mere trespassers having no locus standi to institute the present petition. It is not necessary to decide this question for disposal of this petition as the petitioners claim for alternate site will be examined by the competent authority, who would consider their entitlement and rights for the purpose of the scheme.

9. In view of the foregoing discussion, CM No. 11707/2002 filed by respondent No. 4 is allowed. It is clarified that the order passed on 29th August, 2002 wherein it was observed that in case the land in question is not required by the DMRC, they may not take possession of the same, would not come in the way of DMRC to take possession of the land on which the petitioners' khokhas are situated.

10. As regards the petitioners' claim for alternate allotment, it would be for the petitioners to agitate their claim and establish the same before the competent authorities based on their rights and provisions of the said scheme, the appropriate authority shall duly consider the petitioners' claim. At this stage, learned counsel for the petitioners prays that the petitioners be not evicted immediately and sometimes be granted to vacate the shops. Let the petitioners vacate the shops and khokhas within 10 days since the land is required for a project of public and national importance and significance. Nothing further survives in this petition which is accordingly dismissed.

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