

M.C.D. and Others Vs. Anil Kumar Gupta

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Court : Delhi

Decided On : Jan-14-2011

Judge : Sanjiv Khanna, J.

Appeal No. : LETTERS PATENT APPEAL NO. 52 OF 2011

Appellant : M.C.D. and Others

Respondent : Anil Kumar Gupta

Advocate for Def. : Mr.Yashish Chandna, Adv.

Advocate for Pet/Ap. : Ms. Maninder Acharya, Adv.

Judgement :

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

ORDER

1. 14th January, 2011. Municipal Corporation of Delhi by this present intra-court appeal assails the Order dated 22nd September, 2010 passed by the learned Single Judge allowing writ petition (civil) no. 8983/2009 filed by Mr. Anil Kumar Gupta, the respondent herein. By the impugned Order, the learned Single Judge

has quashed Order dated 5th February, 2009 passed by the Deputy Health Officer, City Zone, revoking/cancelling of the license given to the respondent for carrying of business of selling khoya, paneer and sweets from shop no. 470, Chandni Chowk, Delhi.

2. Deputy Health Officer, City Zone had issued show cause notice dated 22nd December, 2006 and letter/reminder dated 8th January, 2007 and had sought an explanation why the license of the respondent should not be cancelled on account of false claims and documents relating to his tenancy. It was also alleged that the trade was being undertaken under insanitary conditions and there was no water connection in the premises. The respondent contested the said position in his reply dated 16th January, 2007 and enclosed copy of water bill, orders passed by court in the inter se litigation between him and landlord/landlady.

3. Deputy Health Officer, City Zone by Order dated 6th September, 2007 revoked the license. This Order was successfully challenged by the respondent in the writ petition (civil) no. 6725/2007 which was allowed vide Order dated 21st July, 2008 and it was directed that the Deputy Health Officer should pass a speaking Order explaining the reasons for his decision.

4. Deputy Health Officer, City Zone thereafter passed Order dated 5th February, 2009 cancelling the trade license granted to the respondent. It was also stated in the Order that the respondent was still carrying on business inspite of revocation of the trade license. Prosecution action was directed to be initiated against him and closure notice dated 12th May, 2009 was issued. This action was made subject matter of challenge in writ petition (civil) no. 8983/2009, which has been allowed by the detailed impugned Order.

5. It is manifest and accepted that the action of the appellant was initiated after receiving complaint of the landlord. The respondent and the landlord is engaged in a bitter legal battle. The landlord, it is also apparent, has disputes with his brothers and sisters. These aspects including the aspects of forgery, rent receipts, etc. have been dealt with in detail in paras 8 to 10 of the impugned Order. The present case is not an ex facie case of rank trespasser who has forcefully occupied a property. The case is one where there are inter se disputes and litigation pending

between the parties. Additional Rent Controller had decided and accepted the version of the respondent but the Rent Control Tribunal has decided the case in favour of the landlord. The respondent however has filed a petition in the High Court and the Order of the Rent Control Tribunal has been stayed.

5. Learned counsel for the appellant had submitted that the khoya sweets being sold in the shop were prepared in unhygienic conditions outside Delhi. The contention of the appellant cannot be accepted for the reasons set out in para 6 of the impugned Order. The learned Single Judge has specifically noticed that this is not a ground mentioned in the cancellation Order dated 5th February, 2009 and appears to be an afterthought. There is no basis for the said allegation. Further Municipal Corporation of Delhi has not given any license to manufacture khoya sweets. The sold products are not being manufactured/cooked in the shop. The trade license has been given to sell khoya, paneer and sweets. Even with regard to the water connection, the learned Single Judge has referred to the contention of the parties in paras 9 to 11 and has opined that the impugned Order records that the time of passing of the order, water connection did exist in the premises. In view of the above, we do not find any merit in the present Appeal and the same is dismissed. No order as to costs.

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