

Satish Chand Gupta and Another Vs. Mcd and Others

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Court : Delhi

Decided On : Feb-17-2012

Judge : The Honourable Ms. Justice Hima Kohli

Appeal No. : W.P.(C) 972 of 2012 & CM 2135 of 2012

Appellant : Satish Chand Gupta and Another

Respondent : Mcd and Others

Judgement :

HIMA KOHLI, J.

(Oral)

1. The present petition is filed by the petitioners praying *inter alia* for issuance of directions to respondents No.1, 3 and 5 to remove the encroachment on public land outside premises No.2/2, 2/3, 2/4, Roop Nagar, Delhi, and premises No.43-A, 28-E, 29-E, 42-E, D-176, Kamla Nagar, Delhi, and other places surrounding the residence of the petitioners, i.e., premises No.2/2, Roop Nagar, Delhi.

2. Counsel for the petitioners states that respondents No.6 to 8 are the brothers of the petitioners and all of them are residing in the same premises, i.e., premises No.2/2, Roop Nagar, Delhi. He further states that the petitioners have filed a suit for partition against respondents No.6 to 8 in respect of premises No.2/2, Roop Nagar, Delhi, which is pending adjudication on the original side of this Court. He

contends that respondents No.6 to 8 are running a factory in a part of the subject premises, by installing an oil extracting machine and thus creating a nuisance in a residential area.

3. Counsel for respondents No.1 to 3/MCD, who appears on advance copy, states that the present petition is misconceived and an attempt on the part of the petitioners to settle their personal scores with respondents No.6 to 8. She submits that the officers of the MCD have been taking regular steps to remove the encroachment in the Kamla Nagar area, particularly, premises No.2/2, 2/3, 2/4 as also 66/67-E, D-128, 173, 174, 175 and 176, which are situated in the market area. In support of the said submission, she hands over copies of the letters dated 25.01.2012, 03.02.2012, 07.02.2012 and 08.02.2012 addressed by the MCD to the local police. The same are taken on record.

4. Counsel for respondents No.4 and 5/Delhi Police states that upon receipt of the aforesaid letters from the MCD, the beat officers of the area have been keeping a strict vigil to clear the said area from encroachment. He further supports the submission made by the counsel for respondents No.1 to 3/MCD that this is a purely private *lis* between the petitioners and respondents No.6 to 8, which is sought to be given a different colour by the petitioners by claiming that the statutory authorities are not discharging their duties.

5. As regards the claim of the petitioners that respondents No.6 to 8 are running an oil extraction unit from the subject premises and a closure order ought to be passed in that regard, counsel for respondents No.1 to 3/MCD hands over a copy of the letter dated 19.12.2011 addressed by MCD to NDPL and DJB, informing the said authorities that respondent No.6 had been unauthorisedly running an oil extraction unit from the subject premises and calling upon the said departments to disconnect the power and water supplies to the aforesaid unit with immediate effect. She states that after issuance of the aforesaid letter, respondent No.6 had approached the MCD and submitted a representation dated 28.12.2011 to the Factory Licensing Department, MCD, undertaking therein that he would stop using the premises in question for the purpose of running the oil extraction unit. Alongwith the aforesaid representation dated 28.12.2011, respondent No.6 had

also submitted an affidavit, undertaking *inter alia* that he would remove the aforesaid oil extraction unit from the premises in question. Copies of the aforesaid documents are handed over by learned counsel for MCD and taken on record.

6. Counsel for respondents No.1 to 3/MCD states that upon conducting a recent inspection of the subject premises, it has been verified that the oil extraction unit is no longer operating from the subject premises. She states that all the aforesaid facts are well within the knowledge of the petitioners, but they have intentionally suppressed this information from the Court and have tried to paint a different picture on the strength of the information gathered by them from the MCD under the Right to Information Act and enclosed at page 68 of the paper book.

7. In view of the aforesaid submissions made by the counsels for respondents No.1 to 3/MCD and respondents No.4 and 5/Delhi Police, this Court is satisfied that respondents No.1 to 5 are taking regular and adequate steps to remove unauthorized encroachment on the public land in Roop Nagar and Kamla Nagar as prayed for in prayer (ii) of the writ petition. The respondents No.1 to 3/MCD have also handed over relevant documents to establish that the oil extraction unit is no longer functioning from premises No.2/2, Roop Nagar. The fact is that the petitioners are actually targetting their brothers, namely, respondents No.6 to 8 and not the other encroachers in the area, which is apparent from a perusal of the memo of parties, wherein the petitioners have chosen to implead only respondents No.6 to 8, occupants of premises No.2/2, Roop Nagar, where they are residing along with the petitioners, while refraining from impleading any of the other owners/occupiers of the remaining seven premises, as mentioned in prayer (ii) of the writ petition.

8. For all the aforesaid reasons, this Court declines to entertain the present petition, which is disposed of. However, respondents No.1 to 3/MCD and respondents No.4 and 5/local police are directed to continue maintaining a strict vigil of the area to ensure that there is no encroachment on public land in the locality in question.