

Pradeep Kumar and Another Vs. Uoi and Other.

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Court : Delhi

Decided On : Feb-21-2012

Judge : The Honourable Ms. Justice Hima Kohli

Appeal No. : W.P.(C) 5074 of 2007 & C.Ms. No.14961 of 2007, 11947, 11948 & 13018 of 2008, 1624 & 16243 of 2009, 72 & 74 of 2010.

Appellant : Pradeep Kumar and Another

Respondent : Uoi and Other.

Judgement :

HIMA KOHLI, J.

(Oral)

1. Vide order dated 18.10.2011, respondent No.3/MCD was directed to file a fresh status report clearly stating inter alia as to whether any other encroachments exist on public land, subject matter of the present writ petition, apart from the portion of the land, subject matter of WP(C)No.3412/2010, in which a stay is operating in favour of the petitioner therein. It was further directed that in case any malba was found to be lying on public land, respondent No.3/MCD would ensure its removal before the next date of hearing.

2. A status report has been filed by respondent No.3/MCD on 20.1.2012, wherein it is stated that encroachment removal action was undertaken on 24.2.2010 and

25.2.2010, as per the demarcation made by the revenue authorities. However, further encroachment removal action could not be undertaken on the aforesaid dates due to resistance faced from the local residents. In April, 2010, encroachment removal action was again undertaken by the MCD in respect of a part of the subject premises. It is further stated that as per the recent inspection carried out by the officers of respondent No.3/MCD in terms of the order dated 18.10.2011, no encroachment was found in the properties against which earlier encroachment removal action had been undertaken by respondent No.3/MCD in February and April, 2010, nor was any malba found lying on public land. It is submitted that respondent No.3/MCD had addressed a letter dated 29.12.2011 to the SDM, Vasant Vihar, New Delhi, to intimate the MCD as to whether any further encroachment existed on public land in respect of Khasras No.69 and 249/2 situated in village Dhool Siras, Delhi, for it to take appropriate action in that regard.

3. As the SDM of the area is not a party in the present proceedings, counsel for respondent No.2/Govt. of NCT of Delhi is directed to enter appearance on behalf of the SDM, Vasant Vihar, New Delhi. A complete set of the paper book be furnished by the counsel for the petitioners to the SDM within one week. Within two weeks thereafter, the SDM of the area shall directly inform the Deputy Commissioner, MCD of the Zone if there exists any encroachment on public land, subject matter of the present writ petition. If it is confirmed by the SDM of the area that there does exist encroachment on public land, then he shall convey the same to the MCD, whereafter a date shall be fixed by them for a joint inspection of the area, within one week from the date of the aforesaid intimation. After completion of the joint inspection, respondent No.3/MCD shall take appropriate action for removal of encroachment as per law, within a period of four weeks. An action taken report shall be placed on record by respondent No.3/MCD within a period of two weeks from the date of removal of encroachment, with an advance copy to the counsel for the petitioner.

4. Before taking any removal action with regard to the encroachment on public land, the SDM shall bring to the notice of respondent No.3/MCD any injunction orders passed by any court/forum in respect of the land falling in the subject Khasras.

5. While undertaking the aforesaid joint inspection, the SDM shall also take into consideration the stand of the applicants in CM No.16242/2009 (i.e., Mr. Mahender Singh and Jaswant Singh), CM No. 73/2010 (i.e., Mr. Mahender Singh) and CM No.74/2010 (i.e., Balwant Singh), if not already examined, and verify as to whether there is any stay order granted in favour of the said applicants in any other proceedings. As regards the orders passed in C.M. No.16242/2009 filed by Sh. Mahender Singh and Sh. Jaswant Singh, it was directed that if there is any stay operating in favour of the said applicants, then the SDM shall call upon them to furnish copies of the said stay orders in respect of the land occupied by them. Only after satisfying himself, shall the SDM call upon respondent No.3/MCD to carry out demolition action in respect of the land, subject matter of the present writ petition, which shall be undertaken as per law.

6. In the meantime, respondent No.3/MCD shall ensure strict compliance of the order dated 18.9.2008 by carrying out an inspection of the area on a regular basis and further, if a road is to be laid in the area cleared from encroachment, steps in that regard shall be initiated and the work completed in a time-bound manner, preferably within a period of six months from the date of awarding the work order.

7. The writ petition is disposed of, along with the pending applications, with liberty granted to the petitioner to approach the Court in case the action taken report is not filed by respondent No.3/MCD in terms of the order passed today.

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