

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 73/2008 and CM No.2374/2008

% Date of Decision: 25th February, 2008

DELHI STATE UNEMPLOYED YOUNG
CYCLE-RICKSHAW PULLERS UNION Appellant
Through: Mr. B.L. Chawla, Advocate

versus

UOI & ORS. Respondents
Through

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

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

JUDGMENT

% **25.02.2008**
: **DR. MUKUNDAKAM SHARMA, C.J. (ORAL)**

1. This appeal is directed against the order dated 10.01.2007 passed by the learned Single Judge dismissing the application filed by the appellant praying for restoration of the writ petition which was dismissed for non-prosecution.
2. A bare reading of the documents placed on record would indicate that the said writ petition was listed on four consecutive dates before the learned

Single Judge and on all those dates the appellant did not appear and, therefore, there was no other alternative before the learned Single Judge but to dismiss the writ petition on the ground of default and non-prosecution. Being aggrieved by the said order, the aforesaid application was filed before the learned Single Judge, at which stage the learned Single Judge also considered the merit of the case filed by the appellant. It is disclosed from the records also that the appellant was never allotted any land nor was given any licence in respect of the land in question. In that view of the matter, the learned Single Judge was justified in holding that the appellant occupied the said land as an encroacher. As a matter of fact, we also find that the appellant being an encroacher on the railway land, an eviction proceeding was also initiated under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971. On closure of the said proceedings, an order of eviction was passed against the appellant on 16.11.1990. The said order was never challenged in any higher forum and, therefore, the said order has become final and binding on the parties.

3. The records also disclose that even subsequent to that and without disclosing that such a proceeding was initiated and there was an order of eviction against him, the appellant filed a suit before the Sub-Judge seeking permanent injunction against the respondents restraining them from taking possession of the encroached piece of land. When the actual facts came to

be placed before the Sub-Judge, the suit was withdrawn by the counsel appearing for the appellant on the ground that some oral compromise had been arrived at. Even that statement was made and the suit was withdrawn in the absence of the counsel for the Railways.

4. Considering the facts and circumstances of the case and the appellant being an encroacher on the railway land, the writ petition was held to be without any merit by the learned Single Judge. Therefore, we find no ground or reason to interfere with the aforesaid order passed by the learned Single Judge, which we uphold.

5. The appeal has no merit and is dismissed. CM No.2374/2008 also stands disposed of accordingly.

CHIEF JUSTICE

REVA KHETRAPAL, J

FEBRUARY 25, 2008
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