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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 25.03.2011

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CM No.3259/2011 IN W.P. (C) 19444-45/2006

Urmila Punera & Anr.

..... Petitioners

Through: Ms. Lily Thomas, Advocate

versus

UOI & Ors.

..... Respondents

Through: Ms. Shubhangi Tuli, Advocate for State of Maharashtra

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

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

MR. JUSTICE S.RAVINDRA BHAT (OPEN COURT)

% CM No.3259/2011 IN W.P. (C) 19444-45/2006

1. Heard counsel for the parties. The writ petitioners had sought various reliefs which included a direction to the respondent i.e. the State of Maharashtra to provide them alternative accommodation in the A Block, Sirmur plot, in Kasturba Gandhi Marg, New Delhi. One of the petitioners apparently filed a previous proceeding, WP(C) No.3095/2001. That writ petition was dismissed. Other similarly situated litigants were also writ petitioners in that proceeding.

2. By the final order dated 7th January, 2008, this Court had dismissed the writ petition

in the following terms :

“7. I have examined the materials on record. The residents of the Women’s Hostel amongst whom the petitioners court themselves were represented in the first proceeding in WP(C) 3095/2001. Indeed the first petitioner was a party to those proceedings. Initially, an interim order was made not to be evicted the occupants till the eviction proceedings have been finalized. However, the final order rejected all their contentions and the Court expressed its view that the writ petition was not maintainable as it sought a declaration in respect of the title to the property, the review petition too was dismissed. The first petitioner then filed another writ petition which has not even been disclosed in these proceedings. Here, the relief claimed was a direction against the respondents not to evict her and the other before giving suitable accommodation/relocation. Other petitioners occupants too had sought identical directions. That writ petition too was rejected and the court held that being an allottee was a relevant consideration for entitlement to relocation and that it did not, in any manner, implead the power of the authorities to issue eviction order.

8. After receiving notices of eviction in 2004 and 2005, writ petitioners in fact sought for accommodation and clearly stated that they would vacate the premises within a year. Having regard to the history of this litigation and the surrounding circumstances outlined, I am of the opinion that the reliefs claimed cannot be granted at this stage. Moreover, the petitioners had sought a one year’s time to vacate the premises; even that period is now over. In these circumstances, if they have any grievance under the orders of eviction, it is open for them to prefer an appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act. Since these petitions have been pending interim orders were made. If such appeals are preferred within two weeks, the appellate authority shall consider and dispose off them in accordance with law without considering the issue of limitation. It is clarified that this order is not, in any manner, reflective of the petitioners’ claim for relocation. Subsequent to the letters of the Union Government and the previous orders of the Court, the right to enforce the claim for that purpose is hereby reserved.

9. The writ petitions and all pending applications are dismissed so far as the claim made in these petitions is concerned subject to the liberty reserved above.”

3. The writ petitioners thereafter filed successive applications i.e. CM Nos.6974/2008 and 46/2009. Both of them were dismissed. In these circumstances, the writ petitioner again sought a direction from the Court through yet another application, CM No.1917/2009. That application was rejected in the order dated 11.2.2009 in the following terms:

“CM 1917/2009

The applicant/writ petitioner sought a direction to the State of Maharashtra to allot an alternative accommodation in 'A' Block in Sirmur plot was heard by judgment dated 7th January, 2008. The writ petition was dismissed after considering all the contentions raised. The petitioners during the course of their submissions had relied upon a notice dated 29.12.1998 requiring vacation from the premises. The Court had also in its judgment referred to and considered the impact of the previous proceedings culminating in the judgment in WP(C) No.3095/2001.

The writ petitioner applied by filing CM 6974/2008, contending that she was entitled to Room Nos.36 and 37 'A' Block, given in relocation pursuant to order of the Court dated 27.12.2006. That application i.e. CM No.6974/2008 was rejected on 03.09.2008. Subsequently another application on same lines was moved being CM No.46/2009. The Court rejected that application too on 07.01.2009.

In the present application, the petitioner, has made the same averments and sought recall of order dated 03.09.2008 and 07.01.2009. It is contended in this application that CM No.6974/2008 was dismissed without hearing counsel for the respondent. The record of proceeding dated 03.09.2008 discloses that both parties were represented. In these circumstances, the order dated 07.01.2009, dismissing CM No.46/2009, cannot be found fault with.

Having considered the materials on record and the submissions of parties, the Court is of the opinion that the present application is not maintainable. It is accordingly rejected."

4. In these circumstances and the background, the writ petitioners have again sought directions from the Court by way of a clarification that the order dated 7th January, 2008 did not dismiss but had in fact allowed the writ petition and secondly also seeking a substantial amount i.e. ₹20 lakhs as compensation for allegedly defrauding the Court.

5. Learned counsel argues that the interim order crystallized into enforceable right which led the Court, while disposing the writ petition, on 7th January, 2008 to reserve liberty to claim the right to be put back into possession. It is argued that the State of Maharashtra dispossessed the Petitioners and demolished the premises but did not comply with the Court directions.

6. This Court has considered the pleadings and overall circumstances of the case. The final order of 7th January, 2008 has traced the history of litigation concerning the plot upon

which the history was built. The Court while dismissing the Writ Petition, 19444-45/2006, clarified that the writ petitioners could prefer an appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The Court stated that the concerned appellate authority would entertain and dispose of the appeal if it was preferred within two weeks without being hindered by the question of limitation. It is unclear as to whether the writ petitioners availed the said liberty.

7. Whatever be that position the petitioners admit that their effort to have final order clarified was unsuccessful on three previous occasions. Having regard to these facts, the claim for compensation and the right to be put back into possession into alternative accommodation cannot be entertained in this manner. The petitioners have also not cared to throw light on whether the appeal against the eviction order succeeded and if at all the petitioners availed the liberty granted by the Court.

8. Furthermore, this Court is alive to the circumstance that the right to claim compensation is a substantive one and cannot be dealt with by the manner sought to be done by the petitioners, through an application in a disposed of Writ Petition.

9. In these circumstances, the application is not maintainable and accordingly dismissed.

**S. RAVINDRA BHAT
(JUDGE)**

MARCH 25, 2011
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