

\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on: 14th November, 2014

+ W.P.(C) 7831/2014

SANRAJ FARMS PRIVATE LIMITED

..... Petitioner

Represented by: Mr.Ravi
Gupta, Sr.Adv. with Mr.
C.P.Sharma and Mr.Ajay
Gulati, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondents

Represented by: Mr.V.K.Tandon and Mr.
Gursharan Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

C.M.No.18385/2014 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 7831/2014 & C.M.No.18384/2014 (Stay)

1. Vide present petition, the petitioner seeks directions thereby quashing the directions/orders issued by the Public Grievance Commission/respondent No.2 in its order dated 26.12.2013, 30.01.2014, 04.03.2014 issued to the Sub-Divisional Magistrate and the Deputy Commissioner, New Delhi.

2. The petitioner further seeks directions thereby declaring that the Public Grievance Commission has no powers/authority or jurisdiction to issue directions to the learned Sub-Divisional Magistrate and Deputy Commissioner, Revenue Department to initiate proceedings under Section 133 of the Cr.PC, 1973 against the petitioner in respect of the private land.

3. Mr. Ravi Gupta, Learned Sr. Counsel for the petitioner submits that complainant Sh.Rampal had filed a complaint before the Public Grievance Commission/respondent No.2 on 21.10.2013. Accordingly, the Deputy Secretary of the Commission on behalf of the Commission requested the Deputy Commissioner (New Delhi) to furnish the Action Taken Report within four weeks from the date of issue of this letter under intimation to the complainant. It is further directed that Nodal officer of the Deputy Commissioner shall attend the hearing alongwith all concerned official with detailed and comprehensive action taken report indicating whether subject of the grievance has been resolved or any reason why it has remained unresolved.

4. Learned Sr. Counsel submits that with regard to the order dated 04.11.2013 the petitioner has no grievance. However, on 26.12.2013 during the hearing before the Commission, Sh. Pravindra Tomar, Patwari, Sub-

Division Vasant Vihar, and Sh. S.K.Sharma, Kanungo, Vasant Vihar, were present. The petitioner has also no grievance to this extent.

5. Thereafter, the said complaint was listed before the Public Grievance Commission/respondent No.2 on 30.01.2014. In para 3.2 of the order dated 30.01.2014, recorded as under:-

“At today’s hearing on 30.01.2014, Sh. Pravindra Tomar, Patwari, sub-division Vasant Vihar, stated that notices have been issued to all concerned parties for hearing on 15/02/2014, in the court of Revenue Assistant/SDM (Vasant Vihar), District New Delhi, Revenue Department. The notices for hearing have been issued by speed post and wherever feasible, the concerned parties have been intimated over telephone.”

6. And in the para 3.3 of the order it was recorded as under:

“The complainant submitted that as the common passage has been blocked by installing a gate, he is not able to reach his agricultural land and cultivate it. He contended that the Revenue Department had wrongly permitted for construction of enclosure in the land bearing Khasra Nos.955 min (2-8), 956 min(3-16, 967 min (3-11), 968 min (3-3), 941 (4-16), 950/2 (2-8), 951 min (2-16), 952 (4-16), 953 min (1-4) and 951 min (2-0) of village Rajokri. Sh.Pravindra Tomar, Patwari, sub-division, Vasant Vihar replied that the complainant is referring to an order dated 22/01/2009. He further stated that twice he facilitated the entry of the complainant through the gate. The complainant argued that calling upon the revenue officials every time, he has to go his agricultural land, is not feasible.”

7. Moreover, it is further recorded that the matter in the court of Revenue Assistant/SDM (Vasant Vihar), which is fixed for hearing on 15.02.2014, should be decided on this date, without fail, as per merit. Learned senior counsel submits that once the Commission has entertained the complaint and refer the complaint to the concerned authority, thereafter, the Commission has no jurisdiction over it especially when the matter is being dealt with a quasi-judicial authority. The Commission cannot supervise the proceedings over the quasi-judicial authority and especially cannot direct to decide the matter in a particular manner or on a particular date.

8. The petitioner has no difficulty by adopting the procedure by the Revenue Assistant/SDM however because of the pressure of the Commission the Revenue Assistant may prejudice.

9. Thus, Learned Senior Counsel submits that the proceedings under Section 81 of the Delhi Land Reforms Act, and proceedings under Section 133 Cr.P.C. are pending before the Revenue Assistant and if the said authority decide as early as possible by adopting the proceedings the petitioner has no difficulty, however, the Commission should not interfere in the quasi-judicial proceedings.

10. Learned senior counsel for the petitioner submits the Public Grievance Commission/respondent No.2 was set up on 25.09.1997 under a Resolution No. F.4/14/94-AR issued by Government of NCT of Delhi. The Public Grievance Commission is an additional forum where the public can lodge their grievance. A separate grievance redressal mechanism also exists under each department as well as in the local bodies like Municipal Corporation of Delhi, NDMC, Delhi Jal Board, Delhi Transco etc. The Public Grievance Commission is a body which cross-cuts sectors, departments and agencies and provides a simple virtually paperless mechanism where the public can personally speak with their mind pointing out the difficulties they had faced. Complaints are lodged with the Public Grievance Commission when citizen find that despite having approached the concerned agency, department or local body, the matter remained unresolved.

11. The grievance of the petitioner is that after recommending the complainant to the concerned SDM, the proceedings under Section 133 Cr.P.C. is pending before the Revenue Assistant/SDM. Despite, the power and jurisdiction, as discussed above, the Commission in its order dated 04.03.2014 recorded as under:-

“3.3 Sh. Alok Sharma, SDM (Vasant Vihar) explained that the land in question is in joint khewat, for which the individual shares of the co-owners are defined, but there is no distribution of share of the land, in the revenue record. The approach to the land of the complainant is through private land and there is no provision in DLR Act, 1957 to provide easement. Each of the co-sharer is having the land according to his own share and are not having any extra land. Hence, it was thought fit to institute a case u/s 133 CrPC. He submitted that the gate installed by M/s Tall Capital is in vested Gram Sabha land and through the proceedings u/s 133 Cr.PC, the gate in the vested Gram Sabha land will be removed. The hearing in the matter in the court of Revenue Assistant/SDM (Vasant Vihar) is fixed for 15/03/2014, at which the issue of gate will be finalized. The further issue of approach to his agricultural and, should be pursued by the complainant in the judicial court.

12. Accordingly, directions were issued to Sh. Alok Sharma, SDM (Vasant Vihar) to ensure that the proceedings u/s 133 CrPC are finalized at the hearing on 15.03.2014 and the gate vested in Gram Sabha land is removed. Further vide order dated 27.05.2014, the Commission directed the SDM to ensure that the proceedings in his Court are finalized at the earliest with its speaking order. The matter will be reviewed on the next hearing and a senior representative will remain present with a status report.

13. Keeping in view the resolution under which the Public Grievance Commission has been established, the said Commission has right to take

action on the inaction or corruption made by any departmental official and has power to pursue the matter and issue direction to ask them to decide a complaint in a time bound manner. However, the Commission has no power to monitor and guide the proceedings before the Court/Tribunal or the quasi-judicial authority. The functions of the Commission shall be advisory in the same sense as those of the Union Public Service Commission. The Commission shall consider, if it is satisfied that the circumstances of the case so warrant, complaints made by the members of public against action of omission or commission including cases of inaction or harassment or extortion or corruption or abuse of power and authority on the part of the officials of the departments of Government of NCT of Delhi and local bodies, autonomous organizations/undertakings and other institutions owned or substantially financed by the Government of NCT of Delhi including Delhi Police. Under the head of power and functions it is clearly mentioned that the applicant/complainant shall make a specific declaration to the effect that to the best of his knowledge and belief the subject matter of the complainant is not sub-judice whereas in the present case the matter is sub-judice.

14. At this stage, Mr. V.K.Tandon, Advocate appeared on advance notice

on behalf of respondents and submits that the Revenue Assistant may ignore the order dated 04.03.2014 and 27.05.2014 and will not be influenced by any direction or request made by the Commission, however, will proceed with the matter as per the procedure and the law and dispose of the same at the earliest.

15. Since, the Public Grievance Commission has already referred the matter to the Revenue Assistant/SDM for taking action, and then the matter is seized by a quasi-judicial authority. In that eventuality, the Commission has nothing to do with the complaint filed by the complainant at this stage. However, as per the power and jurisdiction of the Commission, it may initiate proceedings, if necessary, after the decision taken by the Revenue Assistant.

16. In view of the circumstances, the proceedings before the Public Grievance Commission are adjourned sine die waiting the report of the Revenue Assistant.

17. Learned senior counsel for the petitioner, on instructions, wishes to withdraw prayer (c) of the petition with liberty to raise the same at the appropriate stage before appropriate forum.

18. In view of the above directions, the petition is disposed of. The

pending application also stands disposed of.

19. Dasti.

NOVEMBER 14, 2014

mr/RS

SURESH KAIT, J