

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 17303 of 2022

Petitioner :- Lal Chandra Gupta

Respondent :- State Of U P And 5 Others

Counsel for Petitioner :- Rajeev Upadhyay, Jamal Ahmad Khan

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra, J.

Hon'ble Ms. Nand Prabha Shukla, J.

1. Heard learned counsel for the petitioner and learned AGA for the State.
2. Counter affidavits, rejoinder affidavits and supplementary affidavits filed by the parties have already been exchanged and are part of the record. Application to implead Sri Ajit Dhawan as respondent no.7 has been dismissed as not pressed.
3. The instant writ petition seeks a writ in the nature of mandamus commanding the respondents not to harass the petitioners and not to make search at the house of the petitioner without permission by the competent court as required under the law.
4. Learned counsel for the petitioner submits that the petitioner purchased Bungalow No.11, Chatham Lines, Prayagraj which is under the ownership of Government of India through Cantonment Board, Prayagraj. The said bungalow is under the old grant and was allotted to Smt. Chand Sahai. After her death, the name of P. Sahai (husband of late Smt. Chand Shai) was mutated in the records of the Cantonment Board. Subsequently, Mr. P. Sahai (deceased) obtained the permission from the Ministry of Defence for selling the bungalow and also executed the power of attorney in favour of Sri Ajit Dhawan for taking care of the bungalow and also for executing a sale deed. The petitioner purchased the bungalow from late P. Sahai, through his power of attorney holder, Sri Ajit Dhawan on 10.10.1990.
5. It has been alleged that on 31.10.2022 certain Police personnel in connivance with Ajit Dhawan and other influential persons entered his bungalow with a view to grab the property to the petitioner without any search warrant or valid orders of the

competent Court. It has further been alleged that the respondents while forcefully entering his premises, beat up the guards, damaged the close circuit camera and DVR and brought a steel container on a truck which was unloaded in the lawn of the petitioner with the help of two cranes after damaging the main gate of the premises.

6. Apart from above, since the night of 28.12.2022, about 10-15 persons are continuously residing in the house of the petitioner and are using the kitchen.

7. Per contra, learned GA for the State has submitted that a first information report has already been lodged against Mr. Ajit Dhawan and 30-40 unknown persons as FIR No. 0705 of 2022, dated 30.12.2022, Police Station- Colonelganj, District-Prayagraj and the investigation is in progress under the supervision of superior police officials.

8. It has been averred in paragraph 9 of the counter-affidavit dated 24.02.2023 that it was in compliance of the order of the Commissioner, Allahabad Division dated 26.10.2022 an inspection was made by the Assistant Commissioner of Police and Additional Labour Commissioner as well as Police personnel of Police Station, Colonelganj, Prayagraj and the enquiry report was submitted to the higher officers. However, till date no incriminating material has been collected. It has further been averred in paragraph 17 that the disputed bungalow is an asset of Cantonment Board and is jointly possessed by both the parties who may settle their differences by approaching competent Civil Court.

9. In the context of the arguments, we have examined the record annexed. Along with the second supplementary affidavit filed by the Commissioner of Police, is the sale deed by which the property in question was purchased by petitioner. Its perusal reveals that petitioner is not the exclusive owner thereof. Niharika Dhawan Trust through his Managing Trustee, R. N. Dhawan is the second vendee, having purchased the Guest House/garage annexe set with appurtenant land measuring 10 meter x 11 meter along with right to use the well and approach road. It also transpires that Ajit Dhawan is the son of R. N. Dhawan and the power of attorney holder of P. Sahai.

10. From the contents of the rejoinder affidavit of Sri Anoop Kumar Gupta, sworn on 24th April, 2023, it is petitioner's case that the steel container has been placed in the premises in question, with the connivance of Police personnel with Ajit Dhawan.

11. It has also been submitted by learned counsel for the petitioner that the sale deed was with regard to portion of bungalow No. 12 regarding which a no objection have been granted by the Ceiling Authorities. There is also a recital in the sale deed that part of the land was under litigation as to whether it comprised an area beyond the ceiling limit and in case the ceiling proceedings were decided in favour of the vendor, a separate sale deed for the same would be executed in favour of the first vendee, HUF through administrator L. C. Gupta, the instant petitioner, without any further consideration. It is not in dispute that no sale deed for this portion has been executed although the ceiling proceeding is alleged to have been dropped.

13. Under the circumstances, it emerges that R. N. Dhawan, father of Sri Ajit Dhawan against whom the first information report has been registered, prima facie, appears to have an interest in bungalow No. 11.

14. Under the circumstances, it is clear that there exists some sort of dispute between two joint vendees, namely, the HUF represented by the petitioner and Niharika Dhawan Trust which at the time of sale deed was represented by its managing R. N. Dhawan, father of Ajit Dhawan.

15. However, since a first information report regarding the alleged illegal actions of Sri Ajit Dhawan and another persons have been lodged and investigation is said to be pending and also because Niharika Dhawan Trust, is a joint vendee represented by Sri R. N. Dhawan, father of Sri Ajit Dhawan, at the time of execution of sale deeds prima facie points to existence of a civil dispute regarding shares, nothing further is required to be done.

16. Also, since the petitioner and Ajit Dhawan appear to be joint owners of the bungalow in question, no order of restoration of status quo ante is liable to be passed, despite the search etc., by the Police personnel being illegal, in the absence of a search warrant.

17. The petition is dismissed as infructuous.

Order Date :- 9.11.2023

Aditya Tripathi