

Court No. - 2

Case :- WRIT - C No. - 5522 of 2024

Petitioner :- Sunil Kumar Bajpai

Respondent :- Union Of India Thru. Joint Secy., (Sanyukt Sachiv) F.F.R Division, New Delhi And Others

Counsel for Petitioner :- Vidya Kant Sharma

Counsel for Respondent :- A.S.G.I.,C.S.C.

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Vidya Kant Sharma, learned counsel for the petitioner, Sri S.B. Pandey, learned Senior Advocate & learned Solicitor General of India assisted by Sri Anand Dwivedi, learned counsel for respondent nos.1 to 4 and learned Standing Counsel for respondent nos.5 to 7.

2. Present writ petition has been filed with the following relief:

"i. issue a writ, order or direction in the nature of mandamus commanding the opp. parties concerned to take the necessary action in respect of grievances of the petitioner raised in the application dated 10.4.2024 contained in Annexure no.5 to this writ petition and also not damage the standing sugarcane crops of the petitioner standing on the land in question and permit and allow the petitioner to harvest the same on its reaping/preparing to harvest, and also provide the preference to harvest, and also provide the preference in auction of the land in question or extend the lease period and also stay the auction dated 20.6.2024 in the interest of justice not mentioned in the annexure no.4 to this petition.

ii. issue a writ, order or direction in the nature of mandamus commanding the opposite party no.5 to consider and decide the application of the petitioner dated 10.04.2024 as contained in Annexure No.1 to his writ petition in the interest of justice."

3. It has been submitted by learned counsel for the petitioner that in exercise of power under the Enemy Property Act, 1968, a lease deed was executed in his favour on 20.07.2020 with regard to the Khasra Nos.87, 193, 835, 891, 892, 893, 905Ka, 907, 908Ka, 910, 911,

913, 1002, 1003, 1004, 1008, 1009, 1011, 1012, 1053, 1056, 1057, 1059, 1063, 1064, 1065, 1066, 1141, 1148, 1208, 1209, 1210 Ka, 1212, 1213, 1214, 1215, 1218, 1260, 1383, 1410, 1412, 1491 and 1497 for a period of two years (i.e. from 01.07.2020 till 30.06.2022).

4. The annual rent for the aforesaid land was cumulatively Rs.1,55,000/- per year. It seems that when the period of lease was about to expire and the respondents wanted to take over the possession of the said land, writ petition was filed by number of persons including the petitioner wherein the interim protection was granted and they continued to remain in the possession of the said land and finally a bunch of writ petitions were disposed of, the leading petition being Writ C No.1783 of 2022 (Sunil Kumar Bajpai Vs. Union of India Thru. Joint Secy. New Delhi and 6 Others) (filed by the petitioner), by means of order dated 17.08.2023. The court while disposing of the bunch of the writ petitions in paragraph no.14 had passed the following order:

"(14) As far as the eviction of the petitioners from the land vested in the Government is concerned, in the peculiar facts of the present case, a further three months is granted to the petitioners to handover the peaceful and vacant possession of the respective properties to the custodian/respondents, provided they give/file an undertaking before the authority concerned that they shall continue paying the License fee during this period and promptly vacate the same within a period of three months and shall not claim any further extension. The requisite undertaking may be filed before the authority concerned/Chief Supervisor, Custodian Department within a period of 15 days from the date of fresh notice by publication by the department. In all other cases, the petitioners are directed to hand-over the possession of the subject properties within 30 days from the date of publication of notice. The publication of notice shall be made in two widely circulated newspapers. Needless, to say, it shall be open to the respondents to take necessary steps for timely vacating the subject property after the period prescribed as above."

5. From the aforesaid order, it is clear that only three months time was granted to the petitioner to handover the

peaceful and vacant possession of the property and was also directed to file an undertaking before the concerned Chief Supervisor Custodian Department, within 15 days from the publication of notice by the Department. From the aforesaid, it is clear that the petitioner was aware of the fact that he had to vacate the land within the time prescribed by this court and despite the said order, he continued to be in possession of the said land illegally and arbitrarily and in a clear violation of this court's order and he continues to nurse his crop and in the light of the aforesaid facts, a prayer has been made for a direction to the respondents not to damage the standing sugarcane crop of the petitioner.

6. The petitioner while canvassing his aforesaid submissions has relied upon the order dated 30.01.2024 wherein the application for extension of time was rejected. The court while rejecting the said application had provided that in case any amount is deposited by the petitioner towards the license fees even after surrender of the possession of land on expiry of lease in the month of June, 2023, the same may be refunded to the application of the petitioner.

7. From the aforesaid, it is also clear that the petitioner had to surrender the possession in June, 2023 and no extension was granted by this court. In the aforesaid facts, it is clear that no rights whatsoever vested with the petitioner after expiry of his lease and certainly after passing of the order dated 23.08.2023 when this court had granted three months time to vacate the said land. It is the aforesaid circumstances the possession of the petitioner over the disputed property cannot be justified

even if some crop has been sown by him contrary to a direction passed by the Division Bench as quoted hereinabove.

8. Other aspects on which we have given our anxious consideration is the concealment of fact, though the petitioner has annexed a copy of the order dated 30.01.2024 passed in Writ C No.1783 of 2022 where the application for extension of time has been rejected but he has deliberately not annexed the copy of the main order dated 17.08.2023, wherein the petition was disposed of and he was directed to vacate the said property, within a period of three months and also to file undertaking to the same effect before the Chief Supervisor Custodian Department. The concealment is a material concealment coming to the root of the matter and this court is of the considered view that once the issue pertaining to the possession of the petitioner over the said land has been given a quietus and no appeal has been filed against the said order, no subsequent directions can be given by the coordinate bench overriding or modifying the said order and accordingly the aforesaid suppression is a material suppression and clearly an abuse of the process of the court. Hon'ble Apex Court in the case of **All India EPF Staff Federation Vs. Union of India, SLP (C) No.013329-013330/2024** observed that harsh measure needed to deal with suppression of facts.

9. With regard to the prayer to refund the excess license fee deposited by the petitioner, the prayer made is already covered by the order of the Division Bench dated 30.01.2024 and accordingly this court is not going into the said question and leaving it open for the petitioner to

pursue the remedies available to him, in accordance with law.

10. With regard to the prayer restraining the respondents from damaging the sugarcane crop and permitting the petitioner to harvest the same, the same is rejected and the aforesaid circumstances where there is material concealment of facts, the petition is **dismissed** with a cost of Rs.25,000/- to be deposited with the District Legal Service Authority, Lucknow, within next six weeks.

11. On failure to deposit the said amount during the prescribed time, it shall be open for the State Legal Authority to have the same recovered, as arrears of land revenue, in accordance with law.

Order Date :- 26.6.2024

S.Chaurasia

(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)