

\$~26

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

+ W.P.(CRL) 2126/2015 & CrI.M.A.14054/2015

KANNU LAL & ORS

..... Petitioners

Through : Mr. Vishwendra Verma and Ms.
Shivali, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through : Mr. Rajesh Mahajan, ASC and Mr.
Parul Janiwal and Mr. Peeyush
Bhatia, Advs. with ASI Shri Ram PS
Hari Nagar.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

28.07.2016

By this writ petition under Article 226 of the Constitution of India,
petitioners have prayed as under:-

“(a) to direct the Ld. Metropolitan Magistrate that
the Hon’ble Court’s orders should only be confined to the
pleading and in between the parties;

(b) to issue direction to the respondents not to
harass the petitioners in pretext of the orders passed by
Ld. Metropolitan Magistrate in matter titled as Ashok
Kumar Vs. Vandana Gupta & Ors. in complaint case
no.1187/01 any manner;

(c) to issue the direction to the respondents not to
take any action on the basis of the orders {Annexure P-3
(Colly)} in any manner as the same were not issued in
respect of the petitioners in the interest of justice; ”

It may be noted that the petitioners are not party to the criminal

complaint titled as Ashok Kumar Vs. Vandana Gupta & Ors., pending in the Court of Learned Metropolitan Magistrate. Criminal complaint has been filed by one Ashok Kumar Gupta against Smt. Vandana Gupta, Shri Mukesh Kumar Pal, Raju and Mannu and M/s. B. K. Properties alleging therein that they had sold the land, as mentioned in the complaint, to him for consideration. Later on, it came to his knowledge that the said Khasra was acquired by the government and award had already been passed. Report of Tehsildar was relied upon in this regard.

During the pendency of complaint, vide order dated 9th December, 2014 learned Metropolitan Magistrate has directed the DC (West) to conduct a detailed inquiry regarding physical verification of the flat/property/park and file the report. Vide order dated 21st April, 2015, it was observed that DC was expected to take back possession of the land without waiting for Court's orders. Copy of the order was also sent to the Office of Lt. Governor, GNCTD and other authorities.

It is noted that petitioners had earlier filed W.P. (C) 7554/2015 for similar reliefs and when the counsel was confronted, as to how the writ petition under Article 226 was maintainable against the judicial order, the writ petition was withdrawn. The order reads as under:-

“1. The petition seeks to restrain the respondent no.1 Government of National Capital Territory of Delhi (GNCTD) and its officials from harassing the nineteen petitioners on the basis of the orders of the Metropolitan Magistrate in complaint case no.1187/01 titled ***Ashok Kumar Vs. Vandana Gupta*** of the Court of Shri Dharendra Rana, Metropolitan Magistrate, Tis Hazari Courts, Delhi.

2. Upon it being enquired from the counsel as to how this petition under Article 226 is maintainable against a judicial order, the counsel withdraws the petition with liberty to take appropriate remedies.

3. The petition is disposed of as withdrawn with liberty aforesaid. ”

In the above facts, I am not inclined to entertain this writ petition and the same is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

JULY 28, 2016/dk