

\$~27 to 35 & 46 to 53

% 09.08.2018

Present: Counsel for the petitioner (s)

Mr Avijit Mani Tripathi, Mr Shaurya Sahay and Mr Kumar Abhishek, Advocates.

Counsel for the respondent(s)

Mr Rajiv Bansal, Senior Standing Counsel with Mr Dhanesh Relan, Standing Counsel for the DDA with Ms Komal Soroul and Ms Kajri Gupta, Advocates.

+ W.P.(C) 7765/2016 with CM 32057/2016, 42669/2017, WP(C)7766/2016 with CM 32060/2016, WP(C)7767/2016 with CM 32065/2016, 38163/2017, WP(C) 7778/2016 with CM 32133/2016, 32135/2016, WP(C)7781/2016 with CM 32142/2016, 32144/2016, WP(C) 7788/2016 with CM 32190/2016, WP(C)7790/2016 with CM 32199/2016, 38160/2017, WP(C)7791/2016 with CM 32202/2016, 38161/2017, WP(C) 8306/2016 with CM 34422/2016, 34425/2016, 42666/2017, WP(C) 2485/2017 with CM No.10716/2017, 37942/2017, WP(C) 2523/2017 with CM No.10887/2017, WP(C) 2574/2017 with CM No.11116/2017, 37945/2017, WP(C) 2577/2017 with CM No.11150/2017, 37944/2017, WP(C) 2609/2017 with CM No.11300/2017, 37950/2017, WP(C) 3379/2017 with CM No.14764/2017, WP(C) 3389/2017 with CM No.14816/2017, WP(C) 3575/2017 with CM No.15641/2017

1. The counsels for the petitioners state:

(i) these petitions, save W.Ps (C) No.2523/2017, 2574/2017, 2609/2017 & 3575/2017, under Articles 226 & 227 of the Constitution of India were preferred impugning the orders of the

Page 1 of 5

16

District Judge, acting as the Appellate Officer under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, of dismissal of appeals preferred by each of the petitioner/s against the order of the Estate Officer of the respondent Delhi Development Authority (DDA) against each of the petitioner/s, of eviction of each of the petitioner/s; W.Ps (C) No.2523/2017, 2574/2017, 2609/2017 & 3575/2017 have been preferred directly against order of the Estate Officer, without availing the appellate remedy but were entertained for the reason of parity;

(ii) against the orders of dismissal of petitions of others identically placed as the petitioners in these petitions, appeals were preferred to the Division Bench of this Court which were also dismissed and thereafter Special Leave Petitions (SLPs) were preferred to the Supreme Court;

(iii) the Supreme Court has dismissed the SLPs vide order dated 20.03.2018 in SLP(C) no.5253/2018 titled *Shiv Shankar & Others versus Delhi Development Authority & Another* but has, subject to the petitioners therein filing an affidavit of undertaking to, on or before December, 2019, vacate and hand over peaceful vacant possession of the property in their respective possession and with respect to which orders of eviction have been passed, granted time to those petitioners to vacate the premises by then;

(iv) these petitioners do not want to pursue these petitions and withdraw these petitions and will remain bound by the eviction orders subject matter of each of the petitions, but seek time to vacate as granted by the Supreme Court;

17

(v) that each of the petitioner/s are willing to file affidavits of undertakings in this regard, undertaking to, on or before 31st December, 2019 vacate and hand over vacant peaceful physical possession of the entire premises in their possession/occupation and/or with respect to which eviction order has been passed, to the respondent DDA and not to deal with the said premises in any other manner whatsoever and not to alienate, encumber or part with possession thereof to anyone else; and,

(vi) that this Bench also, vide order dated 24th July, 2018 in W.P.(C) 4428/2013, 4429/2013 & 4433/2013, has granted such time.

2. The senior counsel for the respondent DDA states:

(i) that the grant of the time by the Supreme Court was only to the petitioners who had approached the Supreme Court;

(ii) owing to such time being granted, the project of the respondent DDA is getting delayed and is suffering and which project itself is time bound in terms of direction of the National Green Tribunal;

(iii) it will have to be verified whether each of the petitioner/s is similarly situated as the petitioners before the Supreme Court, to whom the Supreme Court granted time; and,

(iv) the petitioners before the Supreme Court were members either of Delhi Peasants Co-operative Multi-Purpose Society or Jheel Khuranja Milk Producers Co-operative Society.

3. The counsels for the petitioners states that each of the petitioners are member of either of the two societies and premises of none of the petitioners are outside the premises of either of the two societies. He, however states

198

that each of the petitioners, in the affidavit of undertaking, which will be filed, will furnish particulars in this regard.

4. I have enquired from the senior counsel for the respondent DDA that if the project of the respondent DDA is already held up owing to time having been granted to petitioners before the Supreme Court, whether it is the case of the respondent DDA that the location of the premises of these petitioners is such that any further delay would be caused. It is felt that if owing to any one of the persons to whom time has already been granted, the project is already held up, it will not make any difference if the petitioners herein are also granted time.

5. The senior counsel for the respondent DDA states that he is immediately unable to state whether the location of the premises of any of the petitioners is such that grant of time to that petitioner would result in any additional delay in the project.

6. The senior counsel for the respondent DDA however states that the respondent DDA has already filed an application in the Supreme Court in this regard and pleadings wherein are being completed.

7. The apprehension of delay expressed by the senior counsel for the DDA can be taken care of by providing, that if on the application filed by the DDA before the Supreme Court, the Supreme Court makes any order for sooner vacation of the premises, the said order would be binding on these petitioners also.

8. The counsel for the petitioners is agreeable thereto.

9. Accordingly, these petitions are dismissed as withdrawn.

10. However, subject to the petitioners, within four weeks of today, filing

affidavit in this Court, with advance copy to counsel for DDA, giving particulars of membership of either of the two societies aforesaid and undertaking to this Court to, till December, 2019 hand over vacant peaceful physical possession of premises in their respective possession to the respondent DDA and to not deal with the said premises in any other manner whatsoever and not to alienate, encumber or part with possession thereof to anyone else, the orders of eviction from which these petitions arise be not executed till December, 2019.

On such affidavits being filed, the undertaking contained therein shall stand accepted and the petitioners will be bound therewith.

If any of the petitioner/s does not file affidavit or the affidavit is not in terms of above, the respondent DDA shall be entitled to immediately enforce the order of eviction against such petitioner/s.

11. The petitions are disposed of.

AUGUST 09, 2018

'Sn'..

RAJIV SAHAI ENDLAW, J.