

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

% Date of decision: 31st July, 2018

**+ W.P.(C) 7944/2018, CM No.30485/2018 (for interim directions),
CM No.30486/2018, CM No.30487/2018 & CM No.30488/2018
(all for exemption)**

RAM NIWAS & ANR

..... Petitioners

Through: Mr. Anuj Kapoor, Adv.

versus

ESTATE OFFICER & ANR

..... Respondents

Through: Mr. Vijay Joshi with Mr.
Mayank Sharma, Advs. for R-1.
Mr. Rizwan, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. This petition under Article 226 of the Constitution of India: (i) seeks a declaration that the eviction of the petitioners from house at G-18/A, Shiv Mandir, Nizamuddin West, Delhi – 110 013 is illegal; and, (ii) seeks a direction to the respondents to restore the possession of the petitioners and of the aforesaid property; and, (iii) impugns the order dated 27th December, 2010 of the respondent no.1 in exercise of powers under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (PP Act), of eviction of the petitioners from the aforesaid property.

2. The counsel for the petitioners however states that he is not pressing the relief of quashing of the order dated 27th December, 2010 of the respondent no.1.

3. As far as the other two reliefs are claimed, the contentions of the counsel for the petitioners are (i) that though the provisions of the Limitation Act, 1963 are not applicable to proceedings under the PP Act but there was unreasonable delay of eight years in execution of order of eviction of the petitioners and the petitioners should have at least been given a notice; (ii) that six others besides the petitioners are also in unauthorised occupation of adjoining houses and they have not been evicted; (iii) that the petitioners have a right to shelter; (iv) that the petitioners are invoking sympathy of this Court; and, (v) that the daughter-in-law of the petitioners is in the last month of pregnancy.

4. The petitioners, in the petition, have not made even a whisper of the entitlement if any of the petitioners to remain in possession. It is not disputed that the property from which the petitioners have been evicted is a public premises. The counsel for the petitioners is unable to controvert that there is no concept of negative equality and to perpetuate an illegality, Article 14 of the Constitution of India cannot be invoked. Similarly, on being asked the policy of the Government or any authority under which the right to shelter is being enforced, neither is there any averment nor is there any argument. As far as the ground urged of sympathy is concerned, it is not in the *ipsi dixit* of each Judge to follow his/her own conscience and in the name of sympathy, keep on granting reliefs in individual cases, to persons who approach the Court, while a large number of others, though similarly placed, are not getting the same relief. Even otherwise, public land / public premises vest in the public and this Court, while dispensing

justice cannot distribute largesse. As far as the aspect of delay is concerned, even if the law of limitation were to be applied, the dispossession is within the prescribed time. Even otherwise, the petitioners cannot have any grievance of the order of eviction having not been executed earlier.

5. No other argument has been raised.

6. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 31, 2018

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