(12)

$~36 to 45, 55 to 59 & 61 to 74

% 09.08.2018

Present: **Counsel for the petitioner (s)**

Mr Biswajit Kumar Patra for Mr Sandeep Khatri, Advocate.

Counsel for the respondent(s)

Mr Rajiv Bansal, Senior Advocate with Mr Arjun Pant, Ms Kamna Singh and Ms Aprajita Gupta, Advocates for the DDA.
Mr Ajay Verma, Advocate for the DDA.
Mr Dhanesh Relan, Standing Counsel with Ms Komal Soroul and Ms Kajri Gupta, Advocate for the DDA.

\+ **W.P.(C) 8741/2016 with CM No.35847/2016, 37214/2017, WP(C) 8755/2016 with CM No.35884/2016, 37192/2017, WP(C) 8765/2016with CM No.35901/2016, 42665/2017, WP(C) 8766/2016 with CM No.35903/2016, WP(C) with CM No.8841/2016 with CM No.36117/2016, 37196/2017, WP(C)8846/2016 with CM No.36122/2016, 37175/2017, WP(C) 8912/2016with CM No.36250/2016, WP(C) with CM No.9573/2016 with CM No.38381/2016, WP(C) 45/2017 with CM No.280/2017, WP(C) 707/2017with CM No.3258/2017, 42664/2017, WP(C) 6696/2017, WP(C) 6703/2017, WP(C) 6748/2017 with CM No.28080/2017, 46768/2017, WP(C) 6795/2017with CM No.28329/2017, 46770/2017, WP(C) 7172/2017, WP(C) 9538/2017 with CM No.38763/2017, 38764/2017, 46948/2017, WP(C) 9621/2017 with CM No.39168/2017 , 46771/2017, WP(C) 9625/2017 with CM No.39198/2017, 46769/2017, 31962/2018, WP(C) 9722/2017 with CM No.39560/2017, 46969/2017, WP(C)9889/2017, WP(C) 9893/2017 with CM No.40308/2017, 46945/2017, WP(C) 9901/2017 with CM No.40346/2017, 46938/2017, 31964/2018, WP(C) 9904/2017 with CM No.40351/2017, 46946/2017, WP(C) 10013/2017 with CM No.40868/2017, 46947/2017, WP(C)10172/2017, 10190/2017 with CM No.41615/2017, 46944/2017, WP(C) 10216/2017 with CM No.41691/2017, 46942/2017, 31965/2018, WP(C) 10220/2017 with CM No.41701/2017, 46943/2017, 31967/2018, WP(C) 10223/2017 with CM No.41709/2017, 46983/2017, 31966/2018**

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By:AMULYA

(13)

1. The counsel for the petitioner/s states:

(i) these petitions, save W.Ps (C) No.8846/2016, 6703/2017, 7172/2017, 9625/2017, 9901/2017, 9904/2017, 110013/2017 & 10216/2017 under Articles 226 & 227 of the Constitution of India were preferred impugning the orders of the 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.8846/2016, 6703/2017, 7172/2017, 9625/2017, 9901/2017, 9904/2017, 110013/2017 & 10216/2017 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 & Ors. Vs. Delhi Development Authority & Anr.*** 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

(14)

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;

(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;

(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; and,

(vii) that these petitions be disposed of with identical orders as passed in W.P.(C) No.7765/2016 and other connected petitions taken up for hearing immediately prior to these petitions.

2. The senior counsel for the respondent DDA states that his contentions also remain the same as made and recorded in the order passed in W.P.(C) No.7765/2016 and other connected petitions, i.e.:

(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

(18)

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 counsel for the petitioner/s states that he is not aware, whether the petitioner/s in these petitions were members of either of the two societies aforesaid.

4. Else, the senior counsel for the respondent DDA is unable to state with respect to the premises in occupation of these petitioners also, that whether grant of time to these petitioners would cause any additional delay than the delay which has already been caused to the project of the respondent DDA owing to time till December, 2019 having been granted by the Supreme Court.

5. The counsel for the petitioner/s however states that on such of the petitioner/s who is/are found to be member/s of either of the two societies being granted time by this Court, the said petitioner/s will also remain bound by the order, if any passed by the Supreme court on the application filed by the respondent DDA for sooner vacation of the premises by the petitioner/s who had been granted time till December, 2019 by the Supreme Court.

6. The counsel for the petitioner/s is also agreeable that such of the petitioner/s who, in the affidavits of undertaking to be filed are unable to

give particulars of membership of either of the two societies aforesaid, be evicted immediately.

7. The counsel for the petitioner/s on aforesaid terms withdraws these petitions.

8. The petitions are dismissed as withdrawn.

9. 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.

10. The petitions are disposed of.

RAJIV SAHAI ENDLAW, J

AUGUST 09, 2018
sn/bs ..