



\$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 28.03.2024

%

Pronounced on: 03.04.2024

+ **LPA 497/2023, CM APPLs. 31720/2023, 63380/2023, 3310/2024, 4479/2024, 4482/2024 and 4494/2024**

DELHI DEVELOPMENT AUTHORITY

..... Appellant

Through: Mr Chetan Sharma, ASG and Ms Manika Tripathy, Standing Counsel with Mr Ashutosh Kaushik, Mr Rony John, Ms Aishwary Jaiswal, Mr Chandra Prakash Tiwari and Ms Anuja Pandit, Advs.

versus

ROSHANARA CLUB LIMITED AND OTHERS..... Respondent

Through: Mr Sandeep Sethi, Sr Adv. with Mr Manik Dogra, Mr Lalitaksh Joshi and Mr Dhruv Pandey, Advs. for R-1.
Mr Vikrant N. Goyal, Mr Nitin Chandra and Ms Mahima Kadam, Advs. for UOI.

CORAM:**HON'BLE MR JUSTICE RAJIV SHAKDHER****HON'BLE MR JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J.:**

1. This appeal is directed against judgment and order dated 21.04.2023



[hereafter referred to as “impugned order”] passed in W.P. (C) 5110/2023.

1.1 *Via* the impugned order, the learned Single Judge has directed that “no coercive steps” be taken against the petitioner, i.e., Roshanara Club Limited [hereafter referred to as “RCL”].

1.2 Furthermore, the learned Single Judge *via* the impugned order granted liberty to RCL to avail of statutory remedies *vis-à-vis* the eviction order dated 12.04.2023 passed by the appellant, i.e., Delhi Development Authority [hereafter referred to as, “DDA”].

1.3 The aforementioned writ petition is pending adjudication before the learned Single Judge.

2. In the instant appeal, notice was issued by the coordinate bench on 02.06.2023. On the said date, i.e, 02.06.2023, it was brought to the notice of the coordinate bench that RCL had preferred an appeal against the eviction order dated 12.04.2023 with the Principal District Judge, Headquarters, Tis Hazari, Delhi [PDJ]. The court was informed that in view of the impugned order passed by the learned Single Judge, stay was granted by the PDJ. Therefore, upon the submission made on behalf of the DDA, the coordinate bench accepted the prayer that the PDJ should decide the appeal, without being influenced by the order passed by the learned Single Judge. The court went on to state that in the event an application is filed for vacation of stay, the PDJ would consider the same on merits, *albeit*, at an early date. The matter was made returnable on 13.09.2023. On account of a typographical error creeping in the order dated 02.06.2023, upon an application being moved before the coordinate bench, necessary correction was ordered on 14.06.2023. Significantly, the purpose of the correction was to bring it in line with what has been noted by us hereinabove concerning order dated



02.06.2023.

3. Upon it being brought to the notice of the coordinate bench that the learned PDJ had reserved orders in the appeal, matter was adjourned to 06.10.2023.

3.1 On 06.10.2023, the coordinate bench after noticing the fact that the PDJ had dismissed RCL's appeal *via* order dated 25.09.2023 and the DDA had taken possession of its premises, issued the following directions having regard to the factors such as: investment in the building, equipment and other assets, interests of the employees and the members, as also the submission made on behalf of DDA by the learned ASG, Mr Chetan Sharma that it was willing to recommence activities/facilities given by RCL to its members.

“10.1. The DDA is directed to formulate a scheme elucidating the proposed course of action for functioning and management of the Club as they have already taken over the possession.

10.2. Such a scheme shall take into consideration larger public interest and ensure that the facilities are put to best possible use for the members and sports-loving public in general.

10.3. This exercise be conducted within two weeks from the date of release of the order, whereafter the report/ scheme shall be filed with the Court.

10.4. The scheme so formulated shall be circulated amongst the respective counsel for the parties, before the next date of hearing.”

4. Although the coordinate bench had indicated that the aforementioned directions were passed without prejudice to rights and contentions of the parties and that it has not expressed any opinion on merits of the case, the DDA carried the matter to the Supreme Court. The Supreme Court, however, dismissed the petition *via* order dated 19.10.2023 with the following operative directions:

“On conjoint reading of the paragraphs ‘10’ and ‘11’, it is very clear that the Delhi High Court has not taken any final decision on the question of



allowing Delhi Development Authority to run the club. That is the reason why the High Court has said that the scheme formulated shall be circulated to the respective counsel for the parties so that everybody can be heard.

Therefore, at this stage, it not necessary for us to interfere with the directions issued in paragraph '10' as the same are not final. The High Court will hear the parties on the scheme before issuing the directions in terms of paragraph '10'.

With the above clarification, the present special leave petition is dismissed.

The learned senior counsel appearing for the petitioner pointed out that according to the case of the petitioner, in breach of ad-interim order passed by the learned Single Judge of the High Court, the petitioner has been dispossessed and therefore, there is a contempt petition pending. All that we have stated in this order is that in this special leave petition, we cannot pass order of restoration of possession in favour of the petitioner. It is open for the petitioner to prosecute other remedies."

5. The appeal, thereafter, came up for hearing before another coordinate bench on 17.11.2023 as an early hearing application was moved. This application was not entertained and the matter was taken up in the usual course, i.e., on 07.12.2023.

5.1 *Inter alia*, the coordinate bench noticed that a scheme had been formulated, as indicated in the court's order dated 06.10.2023 and that a copy of the same had been supplied to the stakeholders (some of whom intended to file objections to the said scheme).

5.2 Furthermore, *albeit*, inadvertently, it was observed based on submissions attributed to the learned ASG that W.P.(C) 5110/2023 in which the impugned order had been passed, had been disposed of and therefore, the respondents in the instant appeal needed to challenge the scheme by way of substantive writ petition. In the very same order, there is a reference to the fact that clarification concerning Supreme Court's order dated 19.10.2023 should be sought by the respondents before the next date of hearing. Since



according to the respondents, there was errors in the order dated 07.12.2023, a Review Petition no.357/2023 was filed, which came to be disposed of on 20.12.2023. Suffice it to state that corrections in the order were directed to be made, including concerning the observation made that W.P.(C) 5110/2023 had been disposed of. Besides this, both counsel for DDA and RCL conveyed to the court that they did not intend on moving the Supreme Court for clarifying the order dated 19.10.2023.

6. The appeal, thereafter, was listed before the court on 12.01.2024 when Mr Chetan Sharma, learned ASG informed the court that the proposal submitted by RCL in response to the scheme framed by the DDA is under consideration. It is in this backdrop that the matter was listed before the court on 28.03.2024.

7. Counsel for the parties were heard at some length on 28.03.2024. The common consensus which emerged amongst the counsel for the parties was that since the writ petition, i.e., W.P.(C) 5110/2023 was pending adjudication, the appeal could be closed.

7.1 We tend to agree with the submissions of the counsels because the impugned interim order issued by the learned Single Judge was foregrounded in the prayers made in the writ petition, which are yet to be addressed and adjudicated. These prayers read as follows:

*“(b) direct the Respondents, particularly Respondent No.2, to renew the subject matter leases/ licenses of the Petitioner Club; and
(c) direct the Respondent, particularly Respondent No.2, to formulate policy for renewal of expired term leases which has been under their consideration;”*

8. The interim protection granted by the learned Single Judge to RCL



that no coercive measures should be taken against it was based on the rationale that DDA had not as yet finalized its policy concerning long term lease which had expired and had a tenure of 90 years. In this regard, the learned Single Judge adverted to the agenda item concerning its meeting dated 18.01.2022, as available on its website.

9. Contextually, learned single judge alluded to the fact that in a similar circumstance, the DDA had renewed the lease/license of the Delhi Golf Club in 2018 [see paragraphs 26 to 28].

10 The fact that RCL has been in existence for more than 100 years is not in dispute. The fact that it has rendered yeomen service in the field of sports is hardly an aspect which can be put to contestation. The assertion made in the writ petition that it has membership of nearly 4500 persons and thus, along with their dependents, it provides facilities to nearly 25000 people was also noticed in the impugned order.

10.1 Besides this, the learned single judge also took note of the fact that RCL has on its rolls both permanent and casual employees, which provided succor to nearly 2000 to 2500 persons, who are members of the families of such employees.

11. We may also notice that RCL has preferred a writ petition i.e. W.P.(C) 14079/2023 against the PDJ's order dated 25.09.2023. This writ petition is also pending adjudication. In addition thereto, Contempt Case (C) 1432/2023 instituted by RCL is also pending adjudication. The said contempt case has been filed by RCL on the ground that DDA could not have taken physical possession of its premises while the impugned order was in force.

12. In our opinion, the impugned order is in the aid of the final relief that



the RCL seeks in the writ petition. Therefore, at this juncture, it would not be appropriate to disturb the balance, till such time the writ petition, i.e., W.P.(C) 5110/2023, is disposed of. In the writ petition, amongst other grounds, one of the issues raised by RCL is that it had to be put at par with other clubs operating on DDA land, where post expiration, the tenure of the lease had been renewed and/or extended.

13. Therefore, the fact that physical take-over of RCL's premises was triggered by the dismissal of the appeal by the PDJ on 25.09.2023, which is assailed in W.P.(C) 14079/2023, raises aspects, which are juxtaposed with issues raised in W.P.(C) No.5110/2023.

14. Accordingly, the appeal is disposed of with the following directions:

- (i) W.P.(C) no.5110/2023 will be tagged with W.P.(C) no.14079/2023.
- (ii) The scheme framed by the DDA and the proposal/objections submitted by RCL will be considered by the learned Single Judge.
- (iii) The interlocutory applications filed before us, i.e., CM Appls. 4494/2024, 4482/2024 and 4479/2024 by the employees of RCL, who are not as yet arrayed as parties in the aforementioned writ petitions are closed. Liberty is however, given to them to take recourse to an appropriate remedy for agitating their rights, *albeit*, in accordance with the law.
- (iv) The contempt petition i.e., Contempt Case (C) no. 1432/2023 will be decided by the concerned judge after giving due opportunity to the parties involved.



2024:DHC:2630-DB



15. Pending disposal of the writ petition, the impugned order will continue to operate.

**(RAJIV SHAKDHER)
JUDGE**

**(AMIT BANSAL)
JUDGE**

APRIL 03, 2024
pmc

Signature Not Verified

Digitally Signed By: TARUN
RANA

Signing Date: 03.04.2024
19:02:02

LPA 497/2023

Page 8 of 8