
(1996) 08 AHC CK 0048

Allahabad High Court (Lucknow Bench)

Case No: Writ Petition No. 155 (MB) of 1996, decided on 21st August, 1996

Savita Devi and Anr.

APPELLANT

Vs

State of U.P. & Ors.

RESPONDENT

Date of Decision: Aug. 21, 1996

Hon'ble Judges: K.C. Bhargava, J and N.B. Asthana, J

Final Decision: Disposed Of

Judgement

K.C. Bhargava, J.

One of the grievances made in this writ petition is that the petitioners had lodged an FIR on 10/11/1996 (Annexure 4) to S. P., Lakhimpur Kheri against Ram Saran, son of Ganga Ram and police personnel of P. S. Kotwali, Lakhimpur Kheri alleging that in collusion with the police Ram Saran along with some other miscreants has grabbed and taken illegal possession of the house belonging to the petitioners and have also looted household and other articles valued at Rs. 2 lacs and that earlier i.e. on 6/11/1996 also they had moved an application to the S.P./District Magistrate, Lakhimpur Kheri alleging apprehension about taking illegal and wrongful possession of the house belonging to him by Ram Saran in collusion with other persons, but the police did not take any action on the basis of the above FIRs and are in collusion with respondent No. 6 Ram Saran, who is an Ex, MLA. One of the prayers made in this writ petition is that the matter be got enquired into by the C.B.I.

2. Counteraffidavit has been filed by Inspector Harpal Singh, S. H. O. of P. S. Kotwali, Lakhimpur Kheri. From a perusal of this affidavit it transpires that earlier a counteraffidavit containing wrong facts was filed by him. Subsequently, he filed another counteraffidavit admitting that his earlier counteraffidavit filed by him did not contain true facts. In this counteraffidavit he admitted that the applications given to the Superintendent of Police were received at the police station ; that he marked these applications to S. I., Sanjay Kumar Goyal, but he kept those applications with him and then returned them stating that he could not get time to enquire into those applications on account of being busy at the police lines in connection with Republic Day Celebrations. More than seven months

have passed, but the investigation on the basis of these reports has not yet started. This petition was filed on 15/11/1996 in which Superintendent of Police is respondent No. 2. Even thereafter no steps appear to have been taken to get the investigation started. It has been argued on behalf of the petitioners that in the supplementary counteraffidavit filed by Inspector Harpal Singh to the rejoinder affidavit of one of the petitioners in Crl. Misc. Case No. 408 of 1996, he stated in para 11 that he has no objection if the investigation is got done by some other agency. . This statement in this affidavit would support the petitioners' contention that the local police is not interested in investigating the FIRs lodged by the petitioner No. 2.

3. In these circumstances it would be futile to expect that the local police would investigate the matter fairly and impartially even if forced to make investigation in the matter and submit report.

4. Whenever an FIR is lodged under Section 154, Cr. P.C., it is the duty of the police to register a case and make investigation into the allegations made therein. In the instant case the local police has failed to discharge its primary duty in this respect.

5. It is also the contention of the petitioners that in pursuance of the order dated 23/8/1992 passed in Rent Control Revision No. 7 of 1989, decided on 23/9/1992 by 3rd Addl. District Judge, Lakhimpur Kheri, they were delivered possession of the premises in question. The record relating to the delivery of possession was summoned from District Magistrate Lakhimpur Kheri. The record was received, but it was not complete. This Court vide order dated 22/3/1996 directed the District Magistrate to send the complete file. Copy of the order was made available to the Standing counsel, but it is unfortunate that the aforesaid order has not been complied with so far. The complete record is necessary for a fair disposal of the writ petition.

6. In the facts and circumstances of the case and as the local police has failed to discharge its primary duty of investigating the two FIRs, we think that in the interest of justice the C. B. I. should hold investigation in the matter.

We accordingly direct the C. B. I. to investigate the allegations made in the FIRs. (Annexures 3 and 4 to the writ petition) and in addition upon the following points:

(i) who was in possession on 6/11/1996 of the premises in dispute when the report Annexure 3 to the petition was lodged by one of the petitioners ?

(ii) Whether the petitioners were forcibly dispossessed and the house was grabbed by Sri Ram Saran with the aid and connivance of the District Administration and/or police personnel of P. S., Kotwali, Lakhimpur Kheri ?

(iii) To get the complete file of the record referred to above traced out and forward it along with the report to this Court. In case the complete record is not traced out, the reasons thereof.

The report be submitted by the C. I. B. along with the complete file to this Court in a sealed cover within two months.

List on 4111996 further orders. A copy of this order along with the copy of the FIRs dated 6111996 and 1011996 (Annexures 3 and 4 to the writ petition) be sent to the Addl.

Director/S. P., G. B I 7 Nawal Kishore Road, Lucknow within three days. If the C.B.I, requires any other document for carrying out the above order then it may seek the copy from the Additional Registrar, who would make them available after getting the photostat copies.