

(2011) 05 DEL CK 0369

Delhi High Court

Case No: Writ Petition (C) 5262 of 2010 and CM No. 10372 of 2010 (for stay)

Ashirwad Enterprises

APPELLANT

Vs

Govt. of NCT of Delhi and Others

RESPONDENT

Date of Decision: May 16, 2011

Acts Referred:

- Delhi Land Reforms Act, 1954 - Section 85, 86A

Hon'ble Judges: Rajiv Sahai Endlaw, J

Bench: Single Bench

Advocate: V.P. Rana, for the Appellant; S.D. Salwan and Neeraj Choudhary for GNCTD, for the Respondent

Judgement

Rajiv Sahai Endlaw, J.

The writ petitions have been filed claiming that the Petitioner in each of the cases is in lawful possession of go down in Village-Siraspur; that though notices dated 11th June, 2010 u/s 86A of the DLR Act were issued to the Petitioner in each case for 26th July, 2010 but even prior thereto on 16th June, 2010 action for demolition was carried out and the Petitioner called upon to hand over possession of the land. The present writ petitions were filed impugning the actions of 16th June, 2010 and 17th June, 2010 and for restraining the Respondents from forcibly taking over possession of the land from the Petitioners.

2. Notice of the writ petitions were issued and the Respondents restrained from dispossessing the Petitioners or from carrying out any further demolition but with the condition that the Petitioners shall not deal with the property in any manner whatsoever and shall not part with possession or make any addition, alteration or construction thereon.

3. Counter affidavits have been filed by the Respondents. Though the concerned BDO as directed also appeared before this Court on 8th February, 2011 but was of no help.

4. The status of the proceedings u/s 86A supra has been enquired into. The counsel for the Petitioners states that as far as the Petitioners are aware, after the demolition action, the proceedings u/s 86A have been closed. He however informs that the Petitioners have also filed proceedings u/s 85 for declaration of their bhumidhari rights and the same are pending. On enquiry as to the present status of the property, it is informed that only part construction of the go downs, was demolished and the remaining structure still exists.

5. The counsel for the Respondent GNCTD states that he is not aware as to whether Section 86A proceedings are pending or not.

6. In the aforesaid circumstances, these writ petitions are disposed of with the following directions:

(i) Even if Section 86A proceedings are not being pursued further, the Respondents shall be entitled to re-initiate the same and/or commence fresh proceedings of Section 86A for eviction of the Petitioners from the subject land.

(ii) The proceedings if any by the Respondents u/s 86A and the proceedings by the Petitioners u/s 85 shall be tried together and the Revenue Assistant concerned shall dispose of the said proceedings on or before 30th July, 2012.

(iii) The Petitioners are restrained from making any addition, alteration and construction on the subject land and are further restrained from alienating or parting with possession thereof till the disposal of the proceedings aforesaid.

(iv) Subject to the Petitioners complying with the aforesaid conditions, the Respondents till the culmination of the proceedings aforesaid, shall not dispossess the Petitioners from the subject land and shall also not carry out any further action of demolition thereon.

(v) Both parties shall be entitled to take all pleas available to them in the proceedings aforesaid.

The writ petitions are disposed of. No order as to costs.