
LALWATI & ORS Vs D D A (DELHI DEVELOPMENT.

W.P.(C) 5063 of 2018 & CM Appln.19511 of 2018

Court: DELHI HIGH COURT

Date of Decision: May 11, 2018

Acts Referred:

Public Premises (Eviction of Unauthorized Occupants) Act, 1971 & Section 9

Hon'ble Judges: J.R. MIDHA

Bench: Single Bench

Advocate: Kamlesh Kumar Mishra, Sanjay Baniwal, Rajiv Bansal, Arjun Pant, Kamal Singh

Final Decision: Dismissed

Judgement

1.The petitioners have challenged the orders dated 24th March, 2014 and 12th August, 2015 passed by the Estate Officer against them. The

petitioners are seeking a direction to Delhi Development Authority not to dispossess the petitioners from the land at Bela Estate, Vijay Ghat, New

Delhi.

2.Mr. Rajiv Bansal, learned senior counsel for the Delhi Development Authority submits on instructions that the Delhi Development Authority has

taken over the possession of the subject properties, except the property of Petitioner no.4 (Ramesh), before this case was taken up by this Court on

10th May, 2018 at about 4.00 PM.Ã,

3.Learned senior counsel for Delhi Development Authority further submits that this writ petition is not maintainable as the petitioners have remedy

against the order of the Estate Officer is to file an appeal under Section 9 of the Public Premises Act before the District Judge. It is further

submitted that the writ petition is barred by delay and laches as the orders dated 24th March, 2014 and 12th August, 2015 passed by the Estate

Officer have not challenged for more than four years from the first order. It is further submitted that the petitioners have no case on merits in view

of the Division Bench judgment of this Court in LPA 479/2013 titled Sunil Kumar v. Delhi Development Authority decided on 31st January, 2018. It

is submitted that this case is squarely covered by the Division bench judgment of this Court dated 31st January, 2018. It is further submitted that time

was granted by the Supreme Court in the cases in respect of which the litigants had approached the Supreme Court whereas the petitioners have

chosen to approach this Court after inordinate delay after passing of the order by the Estate Officer which has attained finality. It is further

submitted that the project for re-development of the land in question has been prepared in terms of the orders passed by the National Green

Tribunal.Ã,

4.Learned counsel for the petitioners submits that the petitioners are poor persons and they lost their record including the orders dated 24th March,

2014 and 12th August, 2015 passed by the Estate Officer and therefore, they could not challenge the aforesaid orders. Learned counsel for the

petitionerÃ¢â¬âs disputes this Delhi Development Authority has taken over the possession before the passing of the interim order by this Court

yesterday.Ã, He further submits that the Supreme Court in the Special Leave Petition against the judgment of the Division Bench has granted time

to similarly situated persons to vacate in December, 2019 and similar time be granted to the petitioners herein. He further submits that the Delhi

Development Authority is not the owner of the land in question which is strongly disputed by learned senior counsel for Delhi Development Authority

who submits that the prayer III of the writ petition is contrary to the submissions made by learned counsel for the petitioners.

5.Mr. Kamal Singh, Tehsildar, Delhi Development Authority is present in Court and he confirms that the possession of the lands mentioned in para 5

of the petition have been taken over, except the land relating of petitioner No.4 (Ramesh) for which the action has been planned for 14th May, 2018.

6.There is merit in the contention urged by the learned senior counsel for Delhi Development Authority. The writ petition is not maintainable in view

of the remedy of appeal under Public Premises Act. That apart, there is inordinate delay in approaching this Court. The orders of the Estate Officer

have attained finality. This case is squarely covered by the Division Bench judgment of this Court in LPA 479/2013 titled Sunil Kumar v. Delhi

Development Authority, decided on 31st January, 2018.Ã,

7.The writ petition and the pending application are dismissed. Interim order dated 10th May, 2018 is vacated.

8.Copy of this judgement be given dasti to counsel for the parties under the signature of the Court Master.