

(1995) 02 DEL CK 0074

In the Delhi High Court

Case No : Civil Revision Appeal No. 514 of 1994

Bakshi Ram

APPELLANT

Vs

Delhi Development Authority

RESPONDENT

Date of Decision : 01-02-1995

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1

Citation : (1994) 59 DLT 396 : (1995) 32 DRJ 597

Hon'ble Judges : Dalveer Bhandari, J

Bench : Single Bench

Advocate : Jagjit Singh, Indermit Kaur and M.M. Chopra, for the Appellant;

Judgement

Dalveer Bhandari, J.

(1) The petitioner has filed revision petition u/s 115 of the CPC against the order dated 18th May, 1994, passed by the learned Additional District Judge, Delhi in M.C.A.46/92. The petitioner filed the civil suit for permanent injunction against the respondent-DDA, on the ground that the plaintiff is in possession of the disputed premises. It is also mentioned that prior to occupying the present premises, they were carrying on their business of Pvc waste at Tank Road, Karol Bagh, New Delhi.

(2) In the year 1982, the Dda through their Director (Lands) approached the plaintiff and made a request for shifting their business from Tank Road to Pvc market, Jwalapuri, New Delhi. It is also mentioned in the petition that the respondent promised them to give 84 sq. mtrs. of land, along with other shopkeepers of the market. The petitioner acting on the promise extended by the Dda, shifted to Pvc market and was allotted the disputed premises /plot, and they had been carrying on their business without any intervention. It is further mentioned that in May, 1988, a huge fire broke out in the Pvc market at Jwalapuri, as a result of which, the entire record of the petitioner/ plaintiff is stated to have been destroyed. The Delhi Development Authority contested the

suit and filed a written statement. It was pleaded that when survey was conducted, at Tank Road, 30 persons were removed, who were carrying on their business there, but the petitioner was not found doing his business at the Tank Road. It is also submitted that the petitioner has unauthorisedly encroached upon the disputed premises as rank trespasser.

(3) The trial court heard the learned counsel at length and came to the conclusion that the petitioner" failed to furnish any document by which it can be established that the petitioner ever acquired the premises in question. The trial court also observed that even before the fire incident, no document was placed on record by which it could be established that the petitioner was ever in possession of the disputed premises. The petitioner could not give any Explanation why his name was not mentioned in the list of persons who were found to be in possession of the premises in question. No mala fides were attributed against the Dda for striking off the petitioner"s name from the list provided by them.

(4) The Civil Court came to the conclusion that the petitioner was a rank trespasser on the public land and declined to grant injunction.

(5) The petitioner aggrieved by the order passed by Civil Judge preferred an appeal before the Court of Additional District Judge. The learned Additional District Judge has also taken the contentions of the parties .in consideration and also referred to the case of Rajender Kakkar and others vs D.D.A. 1994(1) I.A.D. 432.

(6) While rejecting the appeal the learned Additional District Judge observed that the petitioner has utterly failed to show prima facie any document in his possession regarding the plot in question. The learned Additional District Judge vide his order dated 18th May, 1994 dismissed the petitioner"s appeal and affirmed the judgment of the learned Civil Judge. Reply to the revision petition has been filed in this Court also. In the counter affidavit it is clearly stated that the petitioner was never found doing any business at Tank Road, Karol Bagh which was shifted to Pvc Market, Jawala Pun in the year 1982. It is also incorporated in the written statement that the petitioner has unauthorisedly and illegally occupied plot No. W-229, Jawala Puri, Delhi, and so the question of giving him alternative plot in Pvc market, Jawala Puri could not arise.

(7) It is also submitted that a detailed survey was conducted and on the basis of the survey, the list of 1982 was issued and demand letters were issued to those who were carrying on business at Tank Road, Karol Bagh to deposit premium for an alternative plot. The name of the petitioner did not appear in the survey list of 1982 and as such no demand letter could even be issued to him and the petitioner was not entitled to any alternative plot. The status of the petitioner is that of a tress passer/encroacher and as such is liable to be vacated forthwith.

(8) The learned Additional District Judge affirmed the order of the Civil Judge and dismissed the petitioner"s application under order Xxxix Rule land 2.

(9) I have heard the arguments which have been advanced by the learned counsel for the petitioner against the judgment of the learned Additional District Judge. The petitioner has failed to produce any document by which his legal title or possession could be established. He has miserably failed to demonstrate how he was carrying on his business at Tank Road, Karol Bagh, Delhi. It is established beyond any reasonable doubt that the petitioner being a tress passer and encroacher of public land is entitled to no relief from this Court. The process of court would not lend a helping hand to the trespassers and the encroachers of public land.

(10) After carefully scrutiny of the entire facts and circumstances of this case, this Court is clearly of the view that the impugned order does not call for any interference and the Civil Revision is accordingly dismissed with cost which is quantified as Rs.1,500.00 .