

(1998) 03 DEL CK 0006

In the Delhi High Court

Case No : C.M. No's. 10143/97, 10144/97, 10350/97, 10351/97, 10447-10452/97, 10454-10461/97, 10533/97, 10070/97, 10537/97, 10312/97, 34/98, 304/98, 10520/97, 9117/97, 10313/97, 10316/97, 10671/97, 10186/97, 10683/97, 10685/97, 10616/97, 10889/97, 10614/97, 10615/97

Delhi Cloth and General Mills Company Ltd.

APPELLANT

Vs

Lt. Governor and Others

RESPONDENT

Date of Decision : 01-03-1998

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1998) 3 AD 777 : (1998) 72 DLT 707 : (1998) 45 DRJ 318 : (1998) 1 ILR Delhi 185

Hon'ble Judges : R.C. Lahoti, J; Dalveer Bhandari, J

Bench : Division Bench

Advocate : Mr. Sanjeev Anand and Ms. Kajal Chandra, for the Appellant; Mr. Ravi Gupta, Mr. R.K. Gupta, Mr. T.P. Mishra, Ms. Asha Jain Madan, Mr. B.D. Kaushik, Mr. D.K. Sudan, Mr. Vinay Sabharwal, Mr. P. Chakravorty, Mr. Venkataraman, Mr. S.K. Luthra and Mr. S.P. Gupta (Court Receiver), for the Respondent

Judgement

Dalveer Bhandari, J.—This is a unique and exceptional case which has been dealt with, by the Trial Court to the Apex Court on various occasions. There have been a number of judgments and orders of the Single Benches, Division Benches, Full Benches and even of the Supreme Court. The central issue which has been agitated and re-agitated from the Trial Court to the highest Court on various occasions is "Whether the residential quarters given by the Company to its employees should revert to the Company after their retirement and/or closure of the Mill particularly when adequate compensation has been paid."

2. According to the Master Plan, the petitioner industrial undertaking falls within the non-conforming area and consequently on closure of the mill, residential quarters occupied by the workmen have re-developed. The compensation,

additional compensation, settlement and addendum have all been arrived at by the workmen. Over 98 per cent of the workmen were represented through their Union and most of the remaining ex-employees and others have been heard at length by this Court for several days. The Company has already paid over 100 crores of rupees by way of compensation. Even after judgments and orders of the Full Benches of this Court and the Supreme Court, some of the residential quarters have not been vacated yet. This case is an apt illustration of, how the process of law can be abused. No, order or the judgment has been permitted to acquire finality. It is astonishing that even after the judgment of the full Bench of this Court and of the Supreme Court of India, the same matter is being agitated and re-agitated before the Subordinate Courts and there are a number of instances where even the Subordinate Courts have recorded findings contrary to the judgments of the Full Benches and of the Supreme Court. The judgments of this Court and of the Supreme Court could not acquire finality because these judgments have been reopened by filing civil miscellaneous applications either by individual workman or by their association.

3. The petitioner Mill was closed down in the year 1989. Compensation have already been paid, yet some of these quarters of ex-employees and others have not yet been vacated. The entire scheme of development cannot be executed unless these quarters are vacated. The orders passed by the Full Bench of this Court in 1995 clearly gives indication that the entire matter was going to be concluded within 10 or 15 days, but in this case even after the lapse of several years some quarters have yet not been vacated. Looking to the background of this case, it is difficult to visualize and evaluate with reasonable certainty when would this matter be finally concluded particularly, when even the Apex Court's decisions have not been respected?

4. In order to understand the controversy involved in the case, brief facts are recapitulated in succeeding paragraphs:

5. The petitioner DCM Company was set up in 1889 at Bara Hindu Rao, Kishan Ganj, Delhi in an area of about 63 acres of land. The Delhi Development Act was enacted in the year 1957, for the planned development of Delhi. The Act provided for the preparation of the Master Plan for Delhi and the Zonal development plan for each of the Zones into which Delhi may be divided. The Master Plan of Delhi was prepared, approved and published by the Central Government and brought into force in September, 1962. In terms of the said Master Plan, the land on which the Delhi Cloth Mills and its residential colony were located was a non-confirming use and was to be used for flatted factories and residential group housing. According to the Master Plan there is a specific paragraph dealing with the site of the petitioner company which reads as follows:

"The Delhi Cloth Mills have to move out of this congested area to the extensive industrial districts according to the time schedule given for non-confirming uses. The present site should be developed for flatted factories in gradual stages to relocate the industries now located in "Ahata Kidara and other Areas".

6. The Company filed a comprehensive scheme before the DDA for the redevelopment of the entire land of 63 acres for flatted factories and group housing. The DDA vide its resolution of 1st February, 1983 approved the said comprehensive scheme.

7. The Company applied to the Lt. Governor, Delhi u/s 25-(O) of the Industrial Disputes Act for permission to close the Mill on 27th March, 1985. Simultaneously, the notice of closure of the Mill was also given to the workmen. The Lt. Governor rejected the application of the DCM for closure on 15.4.1985.

8. A Writ Petition No. 1281/85 was filed in May, 1985 in this Court challenging the decision of the Lt. Governor, refusing to grant permission to the Company, to close its undertaking. The matter was referred to the Full Bench of the High Court. On 1st August, 1986, DDA revoked its earlier resolution dated 1st February, 1983 on the ground that extensive modification of the Plan 2001 has still not been finalised, the Lt. Governor refused to grant the permission to close the Mill.

9. The petitioner Company filed a Writ Petition No. 2687/86 on 8th December, 1986 challenging the DDA's resolution dated 1st August, 1986. On 22nd May, 1987, the Full Bench allowed the Writ Petition No. 2687/86 holding that the resolution dated 1st August, 1986 was bad in law. The earlier resolution of the DDA dated 1st February, 1983 was restored.

10. In another Writ Petition No. 1281/85 (Closure Writ) the petitioner Company challenged the decision of the Lt. Governor rejecting the Company's application for closing the undertaking. A settlement was arrived at between the Company and its workmen represented by its 12 unions, whereunder in addition to the statutory compensation payable, the Company agreed to pay additional liability at that time on this account which was assessed by the parties to the tune of Rs. 55 crores. The Union of India and DDA filed two separate Special Leave Petitions being SLP No. 11008/87 and 10032/87 in the Hon'ble Supreme Court challenging the Full Bench decision passed in Writ Petition No. 2687/86.

11. On 22.7.1988, another Writ Petition No. 1281/85 was allowed by the Full Bench setting aside the decision of the Lt. Governor refusing to grant permission for closure. The Full Bench directed the Lt. Governor to decide the Company's application afresh in the light of the observations of the Court.

12. The Lt. Governor on reconsidering the matter as directed by the Court again refused to grant permission to the Company to close the Mill on 29th October, 1988. Immediately thereafter on 31st October, 1988, Writ Petition No. 2476/88 for closure was filed. During the pendency of this Writ Petition, again a settlement was arrived at between the Company and workmen represented by 12 Unions on same lines and terms of settlement dated 28.7.1987. Under this settlement a committee of two Senior Advocates was constituted comprising of Mr. M.K. Ramamurthi, Sr. Advocate and Mr. Rajiv Sawhney, Sr. Advocate to resolve any disputes/differences arising between the Company and the workmen

under the settlement.

13. On 8th February, 1989 an addendum was executed between the Company and the 12 Unions represented by the workmen to the principal settlement dated 1st February, 1989. On 1st March, 1989, Writ Petition No. 2476/88 (second Writ Petition for closure was filed by the Company) was allowed by the Full Bench and the order of the Lt. Governor dated 29th October, 1988 was quashed with the further directions to Lt. Governor to grant permission to close the Mill.

14. The Supreme Court dismissed the SLP No. 3630/89 filed by the Lt. Governor, Delhi challenging the decision of the Full Bench of the High Court dated 1st March, 1989 passed in Civil Writ Petition No. 2476/88.

15. The Lt. Governor Delhi on 30th March, 1989 granted permission to close the Mill in pursuance to the directions of the Full Bench of this Court in Writ Petition No. 2476/88.

16. On 1st April, 1989, the DCM undertaking of the Company was closed down. According to the Company, on 25th June, 1989, the company paid statutory compensation to the workmen. The employees and ex-employees were directed to vacate their quarters.

17. We deem it appropriate to reproduce the salient terms of the license deeds which were executed with the workmen of the Company, because according to the petitioner even the license deed did not provide any protection to the workmen. Terms of license deed are set out as under:

(i) The license was granted while the licensee was in the employment of the Company and for the sole purpose of the licensee being more conveniently situated in such employment was permitted by the Company to occupy and use as a licensee the quarter together with the furniture, fittings, fixtures and effects as per the schedule to the license deed. The legal possession would always remain with the Company

(ii) In the event of the Company deciding to levy the license fee, the Company reserves its right to do so without any notice, and could vary the license fee from time to time at its sole discretion. The license fee could be deducted from the emoluments due to the licensee.

(iii) The occupation of the premises was a condition precedent of the licensee in the employment of the company. This license would stand revoked on the workmen leaving the employment of the company or on his transfer.

(iv) It was specifically stipulated that the license deed would never create or deemed to create any relationship of landlord and tenant between the Company and the licensee. The license is at the option of the Company and it can forthwith determine the license without assigning any reason or giving any notice or providing any alternative accommodation, even though no default is committed by the licensee and even though he may continue to be in the service of the

Company.

(v) The license is neither heritable nor transferable.

(vi) Various restrictions are put on the licensee in the use of the quarter. Licensee is barred from keeping any domestic animal, such as cow, buffalo, goat. Licensee is also barred from allowing any person other than his own family members legally dependent upon him to reside in the quarter with him even though such other persons may be his relatives. Without the written approval of the Company the licensee could not allow his friends and relatives to reside in the quarter for a period exceeding the fortnight. The licensee is prohibited from permitting any demonstration or carrying on any trade union or political activities in the quarter, nor could he invite any person for this purpose. The Company could prohibit entry of any undesirable persons in the quarter licensed to the workman or even in the colony in which the quarter is situated. Licensee was not only to abide the terms and conditions of the license deed but was also required to abide by all such rules and regulations as may be framed by the Company from time to time relating to the license or relating to the Company's colony's in which the quarter is situated. The licensee is also barred from making any alterations, whether of temporary or permanent nature, in the quarter.

(vii) The license would cease automatically when the licensee in receipt of a salary which will include basic and dearness allowance more than Rs. 1,000/-, and the moment his salary exceeds Rs.10,000/- he was to vacate the quarter within 15 days of his first receipt of such salary."

According to the petitioner Company all these conditions which were attained to the license deed clearly demonstrate that the quarters were given to the employees on license basis and it can never be construed as tenancy.

18. The Gaushala Marg Residents Welfare Association (Regd.), an Association formed primarily by the employees of the Delhi Cloth Mill filed a Suit No. 1504/89 on 24th May, 1989 for declaration that members of the Association were tenants with regard to the residential accommodation allotted to them and the petitioner Company be restrained from dispossessing them. The suit was filed in the representative capacity under Order 1, Rule 8, CPC. The main grounds which were taken in this application were that: (a) they are tenants and have been in exclusive possession of their respective quarters; (b) rent was being deducted from their salary every month and "rent" word has been used in the salary receipt; (c) out of 1594 residential apartments, 1294 are in occupation of employees as tenants and 300 are not even employees of the Company. The predecessor in interest of most of these 300 occupants were employees of the Company; (d) in several litigations between Company and the occupants, various Courts have held the occupants as tenants; (e) the settlement of 1st February, 1989 surrendering the tenancy rights is illegal, void and of no consequence.

19. The learned Single Judge of this Court by his order dated 30.8.1990 allowed the Application No. 1504/89 of Gaushala Marg Residents Welfare Association to

sue in representative capacity.

20. On 15.10.1990, the Company filed FAO(OS) No. 217/90 challenging the aforesaid order of 30th August, 1990 of Single Judge in Suit No. 1504/89. The FAO was allowed.

21. The petitioner DCM filed an application before the Supreme Court for necessary directions. The Supreme Court approved the Company's redevelopment scheme in terms of Master Plan, 1962 and the DDA resolution of 1.2.1983 with regard to the 52 acres of land. For the remaining about 11 acres of leasehold land the Company was directed to approach DDA with a proposal.

22. An award was made by the Committee of two Advocates representing the Company and the workmen on 16th May, 1992 under the Settlement fixing 1st May, 1991, the date of the aforesaid order of the Supreme Court as the effective date under the Settlement dated 1.2.1989. The Committee directed that Company shall make payment to the workmen in possession of the quarters on or before 31.10.1992 and all workmen to vacate the quarters by the said date. The award of the two Advocates was made rule of Court on 29th May, 1992 and a decree in terms thereof was passed by the learned Single Judge of this Court.

23. The Joint Welfare Association of the DCM Residents and shop-keepers (Regd.) another association of the ex-employees and shopkeepers moved an application before the committee of two Advocates praying for the modification of the settlement dated 1.2.1989 to the effect that its members be paid additional compensation without linking the same with vacation of the quarters and the company be restrained from evicting them from their quarters.

24. On 22nd February, 1993, an award was made by the Committee of two Advocates under the settlement of 1.2.1989 for payment of compensation and for vacation of the quarters by 15th May, 1993. The payment was to be made by the company only in the event of the workmen occupying the quarters vacating the same by that date.

25. Large number of workmen did not vacate the quarters by 15th May, 1993, the date fixed under the above award. Another award was made by the Committee of the two Senior Advocates on 29th May, 1993 on the application of the Joint Welfare Association of DCM Residents and Shopkeepers (Regd.) directing the workers in occupation of the quarters to vacate the quarters forthwith on or before 21st June, 1993 and on their doing so they shall be paid additional Compensation by the Company. It was further stated that workmen who would not vacate the quarters by the said date shall not be entitled to any compensation or to any interest.

26. On 6th June, 1993 and 9th June, 1993 two more awards were made by the committee of two Advocates giving directions for the mode of payment of the additional compensation and interest under the settlement dated 1st February, 1989.

27. The Company addressed a letter to the Sangharsh Samiti on 20.7.1993 representing the Unions who were signatories to the settlement dated 1st February, 1989. The Company informed the Samiti that it had paid approximately Rs. 75 crores but was pained to note that a large number of quarters have not been vacated by putting the Company in serious difficulty. The Company by the said letter informed the Samiti that in view of the nonvacation of the quarters by the workmen and as the payment was linked with the redevelopment of the Company's land by it on the vacation of the quarters, it had decided not to make any further payments of the additional compensation and that the Company is absolved of its liability to pay additional compensation and is also entitled to seek refund of the payments already made. The Company said that the undertaking given by the workmen to vacate the quarters was one of primary considerations which weighed with the Company in agreeing to pay additional compensation under the settlement of the redevelopment was dependent on the same. The members of the Association, Therefore, could not be allowed to commit breach of their promise and undertaking, so the Company alleged. The Company also denied that any tenancy was ever created either in favor of the second plaintiff or in favor of any of the employees of the Company or any alleged members of the employees, association.

28. The Sangarsh Samiti representing the 12 unions filed CMP No. 5695/93 before this Court in Writ Petition No. 2476/88 (closure writ) seeking directions against the company for making payment to the occupants of the quarters who had defaulted and that further time was extended for their vacation.

29. The Joint Welfare Association of the DCM Residents and Shopkeepers (Regd.) filed an application in Writ Petition No. 2476/88 seeking their impleadment in the writ petition and CM No. 5695/93 and seeking a declaration that the settlement did not affect the rights of its members. In the said application, it was pleaded that: (i) the Association had 190 members and the application was being filed by the President; (ii) Members of the Association consists of- (a) Members who had signed affidavits pursuant to the settlement, (b) Members against whom civil cases had been filed by the company on the ground that they were licensees in the premises in question, (c) Members who have neither given any authority for such settlement nor have signed or submitted any affidavits pursuant thereto; (iii) In civil cases filed by the Company against some members of the Association for eviction, the Courts have so far taken the view that they were tenants; (iv) Out of the 63 acres of land 11 acres belong to DDA and the Company had no right to evict any person from the said land as there was no demarcation and the leases of the land in favor of the company had already expired; (v) there was no sign of the proposed colony at Kundli.

30. The Full Bench of this Court by a common order dated 1.10.1993 decided CM No.5695/93, 6482/93 in Civil Writ Petition No. 2476/88 and FAO (OS) No. 217/90 observed that all concerned parties were bound by the settlement dated 1st February, 1989. The Court extended the time for vacating the quarters by

31.10.1993 and gave directions for making payments. The Court appointed a Receiver to take possession of all the quarters still remaining in the possession of the workmen after 31st October, 1993 with the help of the police, if necessary. The Full Bench set aside the order dated 30.8.1990 of the learned Single Judge under Order 1, Rule 8, CPC holding that the representative suit was not maintainable.

31. A SLP No. 16807/93 challenging the order dated 1st October, 1993 was filed in which it was contended that occupants of the DCM quarters are tenants of the Company, tenants who had retired from the employment of the Company; tenants who were never in employment of the Company; tenants who were employees of sister concern of the Company namely M/s. Swatantra Bharat, Mills. On 13.7.1992, the petitioner Society was formed to safeguard the interests of its members/workmen. The members of the petitioner society comprised both workmen who had given undertaking and those who had not given undertaking in pursuance to the order dated 1.3.1989. There was another category of the persons who were not workmen of the Company at any time but were in the occupation of the quarters of the Company and another category was these persons who were tenants of the Company's quarters but had retired from the Company as on the date of settlement. Yet another category was of the persons who were tenants of the Company but were in the employment of the sister concern of DCM, namely, M/s. Swatantra Bharat Mills.

32. On 28th October, 1993, SLP No. 16807/93 filed by Gaushala Marg Residents Welfare Association and SLP No. 17043/93 filed by the Joint Welfare Association were dismissed by the Supreme Court upholding the decision of the Full Bench dated 1st October, 1993. The Supreme Court extended the time for vacating the quarters up to 31.1.1994 and the directions given by the High Court were modified.

33. The Supreme Court specifically turned down the objection of the members of the Gaushala Marg Residents Welfare Association that they had acquired tenancy rights in the quarters and they will be entitled to the protection under the Delhi Rent Control Act.

34. The Full Bench of this Court in C.W.P. No. 2476/88 observed that directions have already been given in the order dated 1.10.1993 and the petitioner may apply for the appointment of the Receiver for seeking police assistance or break open the locks for taking possession. When the Judges were about to rise they heard shouting of slogans against the integrity of Judges. The Judges retired to their Chambers and thereafter notices of contempt were issued to four persons and they were remanded to judicial custody with the directions that they shall be produced on 7th March, 1994. The Full Bench of this Court recorded their statements and reached to the conclusion that the alleged contemnors were guilty of committing Contempt of Court. The Court directed that four persons be taken in custody on 7.3.1994 and four persons who were taken into custody on the last date, i.e., 4.3.1994 be kept in judicial custody and shall be produced in

Court on 9.3.1994. Eight contemnors were proceeded against by the order of Court on 8.4.1994. Out of them, the office bearers were sentenced of simple imprisonment of three months and members were sentenced for two months simple imprisonment.

35. Inspire of various Court orders some of the quarters have not been vacated then the Full Bench of this Court in its order dated 11.5.1994 had to observe that:

"We find that in spite of orders of the Supreme Court granting time to the workmen, who are bound by the orders, uptil 31.1.1994 some of the workers are still not vacating the quarters. We do take serious note of this fact. We will consider all these questions on the next date of hearing, i.e., 19.5.1994 and the matter be listed on 19.5.1994 at 2.00 p.m."

36. The Full Bench of this Court in its order dated 24.5.1994 observed "that Mr. P. Chakraborty, learned Counsel who appeared for the workmen (Gaushala Marg Residents Welfare Association) stated that within 15 days" time from today all the concerned workmen shall vacate their respective quarters, and as and when the Receiver visits them they shall hand over the keys to them." The Court adjourned the hearing and listed the matter after 7 weeks i.e. on 15.7.1997. Despite the undertaking of Mr. Chakraborty, all the quarters have not been vacated. The Full Bench Again in its order dated 19.7.1994 observed that "we have been informed that the process of taking over of possession of the quarters is continuing and it will take about 10 to 15 days to take possession of about 44 quarters out of the list already furnished. It is observed that "Mr. Chakraborty states that he will be responsible for peaceful handing over of possession."

37. The Full Bench in its order dated 9.8.1994 has observed that "pursuant to our last order possession of 15 quarters out of the remaining 45 has been taken. We direct the Receiver to take possession of remaining 30 quarters within one week. The Receiver can take possession of about 5 quarters per day in case no inventory is to be prepared and the matter was adjourned by the Full Bench. The matter could not be concluded and on 19.1.1995, the Court observed that all Counsels have agreed that the issues involved in these matters can be dealt with by a Division Bench and it is not necessary for three Judges to deal with it. By this order on subsequent dates, the matter was listed before the Division Bench of two Judges. Until 9.8.1994 the matter was adjourned from time to time only to oversee the implementation of its order. The entire complexion of the case was changed when the D.C.M. filed an application u/s 151 of the Code of Civil Procedure, with the prayer that the Receiver be directed to proceed against all the ex-employees of the Company in occupation of the quarters in terms of the Full Bench judgment dated 1.10.1993. It is mentioned in the application that all ex-employees of the Company in occupation of the Company's quarters are covered by the direction of this Court contained in judgment dated 1.10.1993 passed in C.W.P. No. 2476/88, and are liable to be evicted through the Receiver. It is also mentioned in the application that the petitioner company has filed a list

of 155 ex-employees before the Receiver requesting him to proceed against them and take possession of the quarter in terms of the judgment dated 1.10.1993. The Receiver, however, instead of proceeding against them, is making irrelevant queries and held proceedings, consuming time, instead of seeking clarification from this Court.

38. It is also incorporated in the application that the petitioner Company has paid over 100 crores to its ex-employees by way of additional compensation, interest and other benefits under the settlement dated 1.2.1989 which was approved by this Court and the Supreme Court. The necessary pre-condition for giving the additional compensation was that the petitioner Company be permitted to redevelop its lands at Bara Hindu Rao, Kishanganj, Delhi, in terms of the Master Plan of Delhi 1962 and the DDA Resolution No.26 dated 1.2.1983. It is also mentioned in the application that the petitioner Company is, however, not able to re-develop its land because of non vacation of quarters by some of the ex-employees raising entire frivolous objections.

39. The notice of this application was given to resolve this small issue but in the cover and excuse of filing reply to the application, the entire concluded case was sought to be reopened. The ex-employees and others have not only filed their respective replies to the application but also filed a number of independent civil miscellaneous applications on behalf of the ex-employees and others and a serious attempt has been made to reopen the issues finally decided and adjudicated by the Full Benches of this Court and the Apex Court. We deem it appropriate to reproduce the categorical findings arrived at by Single Benches, Division Benches, Full Benches of this Court and of the Hon"ble Supreme Court of India on various occasions regarding the same issue. This exercise is being undertaken to demonstrate how many times the same issue was agitated and re-agitated before the various Courts and how many times more (we apprehend) it will go on being re-agitated unless our or at least the Apex Court's judgment is permitted to acquire finality.

40. In R.S.A. No. 62/86, Shri Kedari Singh Vs. Delhi Cloth & General Mills Co. Ltd., Usha Mehra, J., learned Single Judge of this Court observed as under:

"the quarter was allotted as a personal privilege to stay in the quarter of the Company for greater convenience of his work. The intention of the parties become clear that the allotment was only a license and not lease. As soon as the services were dispensed with on account of retirement the employee was required to hand back the quarter to the employer. No right vested in the land separate and distinct from the contract of service".

41. M.S.A. Siddiqui, J. of this Court in the matter of Arun Mudgil & Another Vs. D.C.M. Ltd., R.S.A. No. 17/96 observed as under:

"the licensee by virtue of his employment in the respondent Company was permitted to occupy the suit accommodation for the greater convenience of his work. It appears that primary object of the allotment of the suit accommodation

was to secure the service of the defendant and the accommodation was a subsidiary object. Thus, the licensee's employment in the respondent Company was a circumstance justifying the creation of a licence. From the facts and circumstances surrounding and appertaining the transaction, it is clear that it was a license and not a lease."

42. In R.S.A. No. 60/97, Mohd. Shamim, J. of this Court observed that

"Hence the appellants have no right, title or interest to retain the possession over the disputed property"

43. Thereafter, the matter has been dealt by the Full Bench of this Court in Civil Writ Petition No. 2476/88, their findings are reproduced in the following paragraphs:

"In the present case we find that the terms of the licence, which we have reproduced above, clearly show that this document does not create a relationship of landlord and tenant between the company and its workmen."

44. The Full Bench of this Court and the Supreme Court also ruled that the settlement between the Company and workmen and others was also just and fair.

45. The Full Bench of this Court in C.W. Petition No. 2476/88 on 1.10.1993 observed :

"We find the settlement is for the benefit of all the workmen and they are all bound by it. Even if some of the workmen are not party to the settlement as not having signed the same, they are also bound by the settlement."

The Court further observed that this would be so as per the judgments of this Court in C.W.Ps. 1281/85 and 2476/88.

46. The Full Bench observed that the settlement was just and fair and the workmen have been putting spokes in the smooth working of the settlement.

"We do not find any fault on the part of the Company in implementing the settlement. Rather we find that spokes have been put in the smooth working of the settlement dated 1.2.1989 by filing diverse litigations by various parties. The Society was formed only in July, 1992. Members of the Society were already members of the trade unions which were signatories to the settlement. We find this application to be wholly mala fide and the company appears to be right in its contention that the sole purpose in filing this application was to extract more money from it."

47. The Full Bench also observed that:

"In the end we may note that the settlement arrived at with solemn undertaking of both the parties and having the approval of this Court and the Supreme Court cannot be just thrown to winds because some workmen have malafide intentions. The Company needs justice as well. Having said all this we are of the opinion that steps are to be taken for implementation of the settlement dated 1.2.1989.

48. The Full Bench, Therefore, gave the following directions:

(1) Those who have abided by the settlement shall be given further payment as per settlement forthwith.

(2) Without prejudice to the award given by the two Advocates, the time for vacation of the quarters is extended till 31.10.1993. (Earlier the workmen were to vacate their respective quarters in October, 1992 which time was extended to 15.5.1993 and then to 21.6.1993.)

(3) In the case of those workmen who have not vacated the quarters and have been given time till 31.10.1993, the amounts due to them as per settlement shall be deposited by the Company in this Court and Registrar shall take out short-term deposits. These amounts shall be paid to the workmen if they voluntarily surrender the possession of the quarters under their occupation to the Company.

(4) A Receiver is appointed to take possession of all the quarters still remaining in the possession of the workmen after 31.10.1993. (5) Mr. S.P. Gupta, Advocate, was appointed as a Receiver. He was directed to function from 1.11.1993. Workmen who do not vacate their quarters by 31.10.1993 shall share the expenses incurred on the Receiver in such proportion as may be determined by this Court. After deducting this amount the balance amount deposited in this Court shall be paid to them."

49. The Gaushala Marg Residents Association filed SLP No. 16807 of 1993 against the judgment of the Full Court dated 1.10.1993 and another SLP No. 17043/93 also filed against the same judgment by the Joint Welfare Association of D.C.M. Residents and Shopkeepers. Both these SLPs were dismissed by the judgment of the Supreme Court dated 28.10.1996.

50. The Apex Court observed in S.L.P.(C) No. 16807/93 while disposing it:

"We have heard Mr. Sushil Kumar, learned Senior Counsel appearing for the petitioners at length. Mr. Sushil Kumar has primarily argued that his clients have acquired tenancy rights in the quarters and as such they are entitled to the protection of the Delhi Rent Control Act. We do not agree with him. The matter has been squarely dealt with by the impugned Full Bench judgment of the High Court. We agree with the reasoning and the conclusions reached therein. SLP is dismissed."

51. The Apex Court observed while disposing of the SLP (C) No. 17043/93:

"We have heard Mr. R.K. Jain, learned Senior Counsel appearing for the petitioners and Mr. Rajiv Sawhney, learned Senior Counsel appearing for respondents 2 and 3. We have been taken through the detailed and well reasoned judgment of the Full Bench of the High Court. Needless to say that Mr. Justice D.P. Wadhwa who spoke for the Bench has dealt with all points succinctly and there is no scope for interference. We agree with the reasoning and the

conclusions reached in the judgment of the Full Bench."

"The High Court has directed the petitioners/workers to vacate the quarters by October 31, 1993. We have already entered the Diwali season. We are of the view that it would be in the interest of justice if the petitioners/workers are permitted to continue to stay in the quarters till January 31, 1994. We order accordingly. The directions given by the High Court are modified to the extent indicated by us-All other directions given by the High Court and not modified by us shall be obeyed meticulously.

Special leave petition is dismissed in the above terms."

52. In view of the categoric finding recorded in the judgments and orders of this Court and of the Supreme Court, it was really not necessary to give further hearing to the applicants who have filed number of applications during the pendency of this matter. The majority of these workmen are ex-employees of the Company and their fight is against the Company. We decided to give a detailed hearing to all these applicants who had approached this Court so that no one should have any grievance or complaint that he or she was denied full length hearing by the Court. The hearing lasted for several days. We discovered after hearing Counsel appearing for these applicants that they had no new argument and were attempting to re-agitate the issues which squarely stand concluded by these aforesaid judgments of this Court and of the Apex Court. All the applicants who have approached this Court can be broadly be classified in Schedule-I to Schedule-VI. We have given hearing to the applicants schedule-wise. All the applicants falling in a particular Schedule were given full hearing and all Counsels who appeared for them were heard in detail. No grievance is surviving with as regard to employees of Schedule I, Therefore, it is not necessary to deal with the applicants of Schedule I.

53. Schedule-II consists of ex-employees who are entitled to receive additional compensation u/s 25(O) of the Industrial Disputes Act, 1947 and compensation of Rs.14,400/-for vacation of quarter.

54. Schedule-III consists of ex employees who are also members of Gaushala Marg Residents Welfare Association (Regd.), who are entitled to receive Rs. 14,400/- for vacation of quarters subject to final adjustment.

55. Schedule-IV consists of ex-employees entitled to only Rs.14,400/- for vacation of quarters subject to final adjustment. In this category, the ex-employees and their L. Rs. were heard through their Counsel.

56. Schedule-V consists of ex-employees who are also similar to Schedule-VI. The only difference is that they are office bearers of the Association whose application was dismissed by the Full Bench vide its order dated 1.10.1993.

57. Schedule-VI consists of ex-employees who are entitled to Rs.14,400/- for vacation of quarters by virtue of their services being transferred to other Companies, namely, DCM Shriram Industries Ltd., DCM Shriram Consolidated

Ltd., DCM Shriram Industrial Enterprises Ltd., under scheme of arrangement duly approved by this Court on 16.4.1990 in C.P. No. 4/90 subject to final adjustment and as such having ceased to be in Company's employment and having no right to occupy Company's property granted to them on license basis.

58. We have considered arguments advanced on behalf of the respondents and other applicants at length because it was urged that they were not party to the settlement, Addendum and consequently are not bound by them. The other consideration which impelled us to give them further hearing was sympathy and compassion for the ex-employees of the Company. The main submission which has been addressed by the workmen and others is that they have acquired tenancy rights in these quarters and they cannot be evicted except by the process of filing eviction suits against the them in the concerned Court: This issue is squarely concluded by the judgment of the Full Bench of this Court which was upheld by the Supreme Court. The findings of the Courts which have acquired finality cannot be reopened. This plea has been taken primarily to gain time. In some cases, even after the Apex Court decision, the Trial Courts have been approached, and it is indeed beyond our comprehension how these matters can be agitated de novo before the Trial Court after categoric findings of the Supreme Court, directing the workmen to vacate the quarters before a specified date?

59. It was submitted on behalf of the respondents-applicants that according to the provisions of Slum Areas (Improvement & Clearance) Act, 1956, these applicants cannot be evicted unless alternative accommodation is provided to them. According to the provisions of Section 19(4) of the Act, this Act would be applicable only to the tenants and not licensees. The Full Bench in this case arrived at a definite conclusion that ex-employees of the Company were licensees and not the tenants. The said judgment was upheld by the Supreme Court.

60. It was strenuously urged on behalf of the applicants-respondents that they are not bound by the Settlement or the Addendum because they were not parties either to the Settlement or Addendum. This submission is also devoid of any merit because these residential quarters were given to the then employees of the Company when they were in the employment of the Company. They all ceased to be workmen, either because of their superannuation or closure of the company, and thereafter they are not entitled to retain residential quarters. Their Lordships of the Supreme Court in *Amalgamated Coffee Estates Ltd. and Others Vs. Their Workmen and Others*, 1965 II L.L.J. 110, observed that "a voluntary settlement, if fair and just, could be allowed to be binding on all the workers even if a very small number of workers were not members of the majority union. The Court also observed that when a recognised union negotiates with an employer the workers as individual do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised union, which is expected to protect the legitimate interest of labour,

enters into a settlement in the best interests of labour. This would be the normal rule where there are no allegations of mala fides, fraud or even corruption or other inducements. The settlement itself refers that one of the trade unions which was also a respondent in both the writ petitions (C.W.P. 1281/85 and C.W.P. 2476/88) did not sign the settlement and did not appear in the proceedings and as such was not opposing the settlement."

61. Apart from this, even after the judgment of the Full Bench in C.W.P. 2476/88, which has been upheld by the Supreme Court, this Court gave hearing to all these applicants for several days. They have attempted to reopen the concluded issues which have acquired finality. No new argument was advanced on their behalf. The entire effort has been to gain as much time as possible. Therefore, this submission on behalf of the applicant has also no substance.

62. Another ingenuous argument advanced on behalf of the applicants was that the Master Plan only required the petitioner Company to close down the Mill and not the residential area. The workmen were entitled to the use of residential quarters as long as they remained in service or till the closure of the petitioner Mill. In the instant case, some of the ex-employees have stayed for several years after they have superannuated and or after the petitioner Mill has been closed down. In somewhat similar circumstances, their Lordships of the Supreme Court in the case of B.M. Lall (Dead) by Lrs. Vs. Dunlop Rubber and Co. Ltd. and Others, , held that the agreement on its true construction read in the light of the surrounding circumstances operated as a license and not as a tenancy.

63. In view of the license agreement between the parties, and the settled position of law, as crystalised by the Apex Court in the aforesaid and other cases, this argument of the applicant is also devoid of any merit.

64. This is a classic case which clearly demonstrates how the process of law can be abused by adopting delaying tactics? Misuse or abuse of the process undermines authority of the pronouncements of the Court and efficacy of the entire judicial system. There has been enormous delay in dispensation of justice because ex-employees and others have set the legal machinery in motion repeatedly by filing applications in concluded matters. This single factor of delay can legitimately shake the faith and trust of common man in the judicial system.

65. A distinguished American Jurist Irving. R. Kaufman in his famous article published in "New York Times" on 9th December, 1984 mentioned and we quote "The Court's only armour in the cloak of public trust; its sole ammunition, the collective hopes of our society." We have to protect credibility and public trust of our system at any cost which are absolutely vital for the survival of our entire judicial system and democracy.

66. The ex-employees and others have retained the residential quarters for a decade or several years without any payment of license fee and without any payment even towards electricity and water charges. If the prayer of the applicants is accepted and the petitioner Company is compelled to recover

possession by filing individual eviction suits, it would indeed be travesty of justice. In other words, we would be permitting the parties to reagitate the decided issues which have acquired finality by an authoritative pronouncement of the Supreme Court in this very case. Another factor may also be kept in view that apart from the fact that the entire process of trial of individual cases and appeals, revisions, special leave petitions and review applications may take decades making the entire judicial process a laughing stock.

67. Manipulation of the legal process ought not to be tolerated because of the ingenuity of the players of system. If this process is not curbed or stopped effectively, it would not only undermine the efficacy of the judicial pronouncements but would make a mockery of the entire judicial system.

68. Undoubtedly, justice should be administered with compassion but in this case misplaced sympathy is bordering on injustice and the credibility of the entire judicial system and authority of judicial pronouncements is at stake because judgments and orders of the Full Bench and even of the Hon'ble Supreme Court have been flouted with impunity. We are constrained to observe that this is one of those exceptional cases where over stretching of the doctrine of "Audi Alteram Partem" has in fact led to enormous delay in dispensation of justice eventually heading towards gross injustice.

69. On consideration of all the facts and circumstances of this case, in the interest of justice, we deem it appropriate to pass the following orders:

"(a) The Receiver already appointed by the Court is directed to take possession of the quarters still remaining in the possession of the workmen and other applicants after 30.4.1998 with the police aid, if necessary. The direction is issued to the Deputy Commissioner of Police of the area to provide all necessary assistance to the Receiver for the purpose. The possession shall be handed over to the Company by the Receiver. All concerned are directed not to create obstruction in discharge of the duty of the Receiver.

(b) On consideration of totality of the facts and circumstances, in the interest of justice, we deem it appropriate and accordingly direct, that all pending cases between the petitioner Company and its ex-employees and others in various subordinate Courts in respect of recovery of quarters are transferred to this Court for appropriate directions. These cases be placed before the Court on 17.4.1998. The Registry is directed to summon the record of these cases through special messengers within one week.

70. The writ petition has already been allowed and disposed of. All the applications filed by the ex-employees and others in the decided writ petition are accordingly rejected. Ordinarily, these applications ought to have been dismissed with exemplary costs but in view of the fact that most of the applicants are ex-workmen we refrain from imposing any costs and direct the parties to bear their own costs.

Applications dismissed.