
(2013) 06 DEL CK 0012
In the Delhi High Court
Case No : LPA No. 427 of 2013

Gopal Krishan Dhir and Others

APPELLANT

Vs

New Delhi Municipal Council

RESPONDENT

Date of Decision : 05-06-2013

Acts Referred:

Citation : (2013) 06 DEL CK 0012

Hon'ble Judges : R.V. Easwar, J; Manmohan Singh, J

Bench : Division Bench

Advocate : Ravi Gupta and Mr. V.L. Madan, for the Appellant; Manoj K. Singh and Mr. Arpan Behl, for the Respondent

Final Decision : Disposed Off

Judgement

Manmohan Singh, J.—The appellants have filed the present Letters Patent Appeal against the judgment dated 21st May, 2013 which was passed in W.P.(C) No. 706/2013. Earlier, in the judgment dated 5th march, 2012 passed by the learned Single Judge and the judgment/order dated 30th March, 2012 passed by the Division Bench, it was observed that in case the Heritage Gole Market Building was to be retained as a market, then the shopkeepers of Gole Market including the appellants be given preference, and in case, it was to be converted into a Museum, then they were to be offered alternate shops/offices. Besides, the respondent/NDMC was also directed to communicate the decision taken on the representation of the shopkeepers of Gole Market including the appellants. The respondent/NDMC vide communication dated 4th May, 2012 offered alternate shops/offices to which the shopkeepers of the Gole Market including the appellants reacted by sending their response dated 10th May, 2012, wherein they expressed their gratitude for the offers made, but wanted to know, as to whether the respondent/NDMC had actually taken a decision to convert Heritage Gole Market Building into a Museum or not.

2. The contention of the appellants is that all of a sudden, on 4th February, 2013 the NDMC staff along with police force came to take forcible possession of all the

shops of the appellants, without giving any notice or intimation of any sort. Therefore, the appellants filed the W.P.(C) No. 706/2013 to seek protection from this Court. The said writ petition was decided by passing the impugned order dated 21st May, 2013. The appellants herein had tendered unconditional undertakings to this Court to the effect that they would handover peaceful vacant possession of their shops/offices on or before 30th June, 2013. The undertakings tendered by the appellants were accepted by the Court vide separate order dated 22nd May, 2013.

3. Learned Senior counsel appearing on behalf of the appellants states that till today, despite of the observations made by the Division Bench of this Court, the NDMC has not taken any decision as to whether they have taken a decision to convert the Heritage Gole Market Building into a Museum or not. Therefore, unless the said decision is taken, the appellants may not be evicted from the said market. However, he has not denied the fact that the unconditional undertakings were given by the appellants, in view of the peculiar facts and circumstances of the case and the said undertakings do not preclude the appellants to challenge the impugned order by filing of the present Letters Patent Appeal which has to be decided as per its own merits.

4. Learned Senior counsel has relied upon a decision of the Supreme Court in the case of *State of Punjab and Others Vs. Bhatinda District Coop. Milk P. Union Ltd.*, , paras 17 & 18 which read as under:-

17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefore, the same would not mean that the suo motu power can be exercised at any time.

18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.

5. On the other hand, the learned counsel for the respondent has relied upon various documents as well as the orders passed by the Court and sought time for two days to file an affidavit on behalf of the NDMC with regard to the decision taken by them. The matter was adjourned for today, i.e. 5th June, 2013.

6. Today, the affidavit of Mr. Arvind Kumar, working as Dy. Director Estate-I in the respondent Council has been filed in Court, informing that the respondent as of now has no intention to develop Gole Market as a commercial property and intends to develop it as a Museum.

7. In view of the affidavit filed by the respondent, it is clear that as far as the undertakings given by the appellants to vacate the suit property on or before 30th June, 2013 are concerned, this court is of the view that the same is binding upon the appellants, as the learned Single Judge has accepted their undertakings which were tendered by the appellants themselves unconditionally. Thus, no

advantage whatsoever can be derived by the appellants not to vacate the suit property incase the respondent is not able to take the decision in respect of development of area as a museum.

8. We are of the view that after filing of the affidavit above, nothing survives in the petition. The decision referred by the learned Senior counsel for the appellants is also not applicable in the present case, as the facts in the present case are materially different.

9. As regards the challenge made by the appellants to the affidavit filed by the respondent in Court on 5th June, 2013, it is open to the appellants to initiate any action which is permissible under law incase it is found that the respondent intends anytime to develop Gole Market as commercial property. However, the said plea if raised by the appellants at the appropriate stage would be considered as per its own merit. The appeal is disposed of accordingly.