

(1996) 02 DEL CK 0053

In the Delhi High Court

Case No : Civil Contempt Petition No. 154 of 1986

Karan Singh and Phoolwati

APPELLANT

Vs

New Delhi Municipal Committee

RESPONDENT

Date of Decision : 29-02-1996

Acts Referred:

Contempt of Courts Act, 1971 — Section 12

Citation : (1996) RLR 195

Hon'ble Judges : R.C. Lahoti, J; Lokeshwar Prasad, J

Bench : Division Bench

Advocate : Kirti Uppal, Sushii Dutt and Salvvan, for the Appellant;

Judgement

R.C. Lahoti, J.

(1) [ED. facts : Petitioners are occupying certain property in Ah"ganj Estate. This property is outside the Railway Gate of Lodhi Road Riy. Stn. in Aliganj Estate. Its Khasra no is 68. Petitioners filed suit and W.P. alleging that they were owners in possession and Ndmc should not disturb them. Ndmc replied that Khasra 68 was not in their jurisdiction and they are not in any way concerned. Later on Ndmc carried out some demolition in Khasra no. 71 and 72. Petitioners claiming that Ndmc had demolished their property and in view of their earlier stand, they were guilty of contempt. The offence was that Ndmc had not touched Khasra no. 63 and their action was confined to Khasra no. 71 & 72]. After detailing above, judgment is :

(2) Having heard (he learned counsel for the parties at length, we are satisfied that there is a bonafide dispute as to the identity of (he property in which right and possession are claimed by the petitioners. The Ndmc cannot be said to have committed a contempt if it has removed unauthorised possession of the petitioners from over a piece of land which vests in it and over which the petitioners have neither possession nor title to possess. It further appears that the dispute between the parties has not only a long history behind but is also

likely to continue in future unless and until the identity of the land which the petitioners claim to be in possession "s clearly established by carrying out appropriate demarcation proceedings. It is pertinent to note that Ndmc does not claim any title or possession over Khasra No 68 of Aliganj Estate while the petitioners do not claim to be in possession of Khasra Nos. 71 and 78 adjacent to Safdarjang Fly-over.

(3) To amount to contempt, there must be willful disobedience to any direction, order, writ or other process of a Court or willful breach of undertaking given to a Court. If statutory authorities act under a bonafide impression that the land belonging to a public body has been encroached upon and under that belief remove the encroachment to protect the public property they cannot be said to have committed willful disobedience of any order, process or writ of the Court. The petitioners would be better advised to have their land demarcated and its identity fixed in appropriate demarcation proceedings.