
(2002) 08 DEL CK 0008

In the Delhi High Court

Case No : CW No"s. 7245 of 2001 and 1184 of 2002

Manoj Kumar

APPELLANT

Vs

N.D.M.C. and Others

RESPONDENT

Date of Decision : 29-08-2002

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2002) 08 DEL CK 0008

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Geeta Luthra, for the Appellant; Hima Kohli and Sandeep Sethi, for respondent No. 4/Tara Devi in CW No. 1184/2002, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Petitioner, Manoj Kumar, filed CW. No.7245/2001 in November, 2001, seeking a prohibition on NDMC from carrying out demolition work at the Model Dhobi Ghat, Bapa Nagar, Dr. Zakir Hussain Marg, New Delhi. He also filed subsequently CW. No. 1184/2002, seeking a writ of mandamus to the NDMC to issue licenses for the Dhobi Ghat to the him and other persons, nominated by him. Petitioner also sought a direction to NDMC to cancel a license issued to Smt. Tara Devi, respondent No.4, and her nominees.

2. In CW. No. 7245/2001, petitioner had claimed that he had been carrying on the business of laundry in the name and style of J & K Dry- cleaners at the Model Dhobi Ghat, Bapa Nagar for over 8 years. He claimed that he had been carrying on the business since Dhobi Ghat was constructed and he had a built a small jhuggi in the said Dhobi Ghat. Petitioner claimed that jhuggi was sought to be demolished without prior notice or any alternate place been allotted to the petitioner. An interim order, directing that the premises of the petitioner be not demolished, was passed on 28.11.2001. Respondent/NDMC on being served in the writ petition, claimed that demolition action had been taken as far back as in March, 2001 and the petitioner was attempting to build a jhuggi in the garb of

interim protection granted by the Court. The interim order was modified on 29.5.2001 and clarified to the extent that the same will not come in the way of the respondent taking action for removal of any unauthorized structure, except the Dhobi Ghat.

3. Pleadings were completed and counsel for the parties had been heard and judgment reserved on 16.8.2002.

4. In CW. No. 1184/2002, petitioner claimed that he was the duly elected Pradhan of the Bapa Nagar Model Dhobi Ghat in the election conducted on 2.9.2001. He, Therefore, claimed that he was entitled to the grant of license and for nominating the other dhobis. Petitioner claimed that non- recognition of the election conducted under the auspices of the Delhi Pradesh Dhobi Ghats Maha Sabha was illegal and was at the behest of the vested interests. Petitioner claimed that the stand of NDMC that respondent No.4, Tara Devi, was the elected Pradhan of Dhobi Ghat was wrong as Tara Devi's election was through a political person, which is not recognised by the NDMC. Besides, she was not eligible being a woman to be the President. In brief, he claimed that the denial of issuance of license and the threat to forcible removal of the petitioner from the site was illegal.

5. Ms. Geeta Luthra, appearing for the petitioner, submitted that though the petitioner was duly elected in the election, but on account of the clout of respondent No.4 with NDMC, name of the petitioner was not included in the list of elected Pradhans of Dhobi Ghat, as issued by NDMC. Instead of name of respondent No.4, Tara Devi was given at S.No. 10.

6. Learned counsel, Ms. Geeta Luthra, further submitted that NDMC had acted in a discriminatory manner inasmuch as the petitioner's jhuggi and structure at the Dhobi Ghat had been removed and assets taken away by the police, while the illegal structures of respondent No.4, Tara Devi and her nominees were still there. Learned counsel submitted that the elections of the petitioner had been conducted by Prof. Chotney Lal, whose recommendations for other Pradhans had been accepted except for the petitioner.

7. Mr. Sandeep Sethi, learned counsel for the respondent No. 4, Tara Devi, opposing the writ petition, submitted that the petitioner was never a licensed Dhobi. Petitioner at the relevant time was not a licensed Dhobi and as such the question of petitioner getting elected as a Pradhan did not arise. He submitted that respondent No.4, Tara Devi, had been elected in the election, which was conducted on 25.6.2001 and was duly recognized by NDMC. Learned counsel pointed out that once respondent No.4, Tara Devi, had been duly elected as the Pradhan of Bapa Nagar Dhobi Ghat on 25.6.2001 for the year 2001-2002, there was no question of the petitioner being elected on 2.9.2001, as is sought to be claimed on the basis of an un-signed letter issued by Prof. Chotney Lal, filed by the petitioner.

8. Learned counsel also pointed out that respondent No.4 had filed a CW. No.

3271/2001, which was withdrawn since NDMC had already removed the unauthorised structure of the petitioner. The present writ petition is stated to have been filed by way of counter blast by unauthorised occupants. Learned counsel also pointed out that petitioner had earlier filed a suit for injunction against dispossession. The prayer for injunction in the suit had been dismissed. Petitioner has since then preferred an appeal. Learned counsel further submitted that an election, as is sought to be raised by the petitioner relating to the officer bearers of the association of Dhobis in respect of Dhobi Ghat, would not be a matter amendable to writ jurisdiction as no statutory rights are involved.

9. Ms. Hima Kohli, learned counsel for the respondent/NDMC, stated that a meeting had been organized on 15.10.2001, by the Director General Welfare of NDMC and attended by the Director (Enforcement) and representatives of the different organisations of Dhobi Samaj. In the said meeting, it was decided that all the elections of Pradhan may be treated as suspended and representatives of Dhobi Samaj were requested to give suggestions to frame a new policy in the NDMC area. As a result, as on date, there is no recognised Pradhan of the various Dhobi Ghat,s including Bapa Nagar Model Dhobi Ghat as the new policy is yet to be formulated.

10. From the foregoing discussion, it would be seen, first of all, that the petitioner's claim to be the duly elected Pradhan of Bapa Nagar Dhobi Ghat is strongly controverted and disputed by respondent No.4, inasmuch as, while petitioner claims to have been elected in a meeting of 2.9.2001, respondent No.4, Tara Devi, was elected on 25.6.2001. Besides, the dispute as to who is duly elected Pradhan of Dhobi Ghat does not involve determination of any statutory rights and is not to be done in the exercise of writ jurisdiction. Petitioner does not even possess, as of now, a license for the Dhobi Ghat. Even a licensed Dhobi only has a right to the use of Dhobi Ghat i.e. of the Thada. It does not entitle any of the Dhobis to raise unauthorised construction or structure on Government lands. It was on account of this that the ex parte restraint was modified vide order dated 29.5.2002, confining it to Dhobi Ghat itself not being demolished. The grievance of the petitioner that unauthorised structure of others are remaining cannot be entertained under Article 14 of the Constitution of India. Nevertheless, it may be noted that learned counsel for the respondent/NDMC has stated that NDMC would and is committed to removal of all unauthorised construction. Nothing further survives in view of this statement.

The writ petitions have no merit and are dismissed.