

(2007) 11 DEL CK 0253

In the Delhi High Court

Case No : L.P.A. No"s. 1297, 1311, 1312 and 1314 of 2007 and C.M. No"s. 14513, 14516, 14853, 14854, 14856, 14859, 14871 and 14874 of 2007

Mohd. Shamim

APPELLANT

Vs

Jamia Milia Islamia and Another

RESPONDENT

Date of Decision : 20-11-2007

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2007) 99 DRJ 491

Hon'ble Judges : Dr. M.K. Sharma, C.J; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Rajiv Bahl, for the Appellant; M. Atyab Siddiqui, for the Respondent

Final Decision : Dismissed

Judgement

Mukundakam Sharma, C.J.

CM Nos. 14514-14515/2007 in LPA No. 1297/2007 (exemption)

CM No. 14855 in LPA No. 1311/2007 (exemption)

CM Nos. 14857-58/2007 in LPA No. 1312/2007 (exemption)

CM Nos. 14872-73/2007 in LPA No. 1314/2007 (exemption)

Allowed, subject to just exceptions.

1. LPA.1297/2007 and CM No. 14513/2007, 14516/2007 (delay)(stay)

2. LPA 1311/2007 and CM Nos.14853/2007,14854/2007 (delay)(stay)

3. LPA 1312/2007 and CM Nos. 14856/2007,14859/2007 (delay)(stay)

4. LPA 1314/2007 and CM Nos. 14871/2007,14874/2007 (delay)(stay)

1. All these appeals involve similar issues of fact and law and, therefore, we

propose to dispose of all these appeals by this common judgment and order.

2. These appeals are filed by the appellants being dissatisfied with the judgment and order passed by the learned Single Judge on 31st August, 2004.

3. We have perused the copy of the said order, which is placed on record by the appellants herein. By the aforesaid order, a number of writ petitions were decided by the learned Single Judge. By a common judgment and order dated 31st August, 2004, all the aforesaid writ petitions were dismissed.

4. One of the writ petitioners being Mr. Abdul Hamid had filed an appeal which was registered as LPA No. 435/2005 against the judgment dated 31st August, 2004. A Division Bench of this Court dismissed the said appeal by an order dated 18th February, 2005. The learned Division Bench, while dismissing the said appeal, held:

3. It is required to be noted that in a writ petition filed under Article 227 of the Constitution of India, this Court is not expected to sit as an appellate court exercising appellate jurisdiction as if the Court is hearing the regular first appeal by appreciating the evidence or re-appreciating the evidence. The learned Single Judge examined the matter in detail. Not only that even survey was carried out and it was found that the appellants were encroachers of the land belonging to the University. In view of this finding of fact, in our opinion, this appeal would not be competent.

4. The learned Counsel for the appellant submitted that the documents which were earlier not produced before the Court were placed before the learned Single Judge by way of review petition and that establishes that the appellants were entitled to remain in the property as the University was not the owner. We are not in agreement. It is required to be noted that the" documents were not produced before the Estate Officer or the

Additional District Judge or before the learned Single Judge before pronouncement of judgment and, in any event nothing turns on these documents.

5. At the end the learned Counsel for the appellant submitted that there are more documents on record which establish that the Government is the owner of the property and not the University. We are not in a position to accept this argument. Khasra girdawaries are revenue records and are to be used only for the purpose of possession. It is well settled that revenue records or records of mutation are not documents establishing title or ownership. These documents sought to be relied upon by the appellant do not establish any title over the property. Therefore, this argument cannot be accepted.

5. It is also pointed out by the counsel appearing for the appellants herein that he was also the counsel for Mr. Abdul Hamid in the said case. He further states that to the best of his information no appeal was taken by Mr. Abdul Hamid to the Supreme Court as against the aforesaid order. The said order, therefore, has become final and binding.

6. The learned Single Judge in the impugned order has given reasons which are found to be cogent and appeal against the said judgment stands decided by a Division Bench in the aforesaid LPA No. 435/2005.

7. It may also be noted that after judgment dated-31st August, 2004, when appellants herein have already been dispossessed.

8. Besides, the present appeals were filed in time but were returned with objections to the appellants. The appeals were refiled initially on 13th May, 2005, when these were again returned with objections and again taken back from the Registry. The appeals were thereafter refiled on 21st September, 2007 after a delay of about more than two years. The aforesaid refiling is beyond the period of limitation and, therefore, applications have been filed praying for condonation of delay. We have gone through the said application. The averments made in the said applications are vague. The aforesaid statements do not make out a case of sufficient cause. The appeals are dismissed on the aforesaid ground and also as barred limitation.

9. Consequently, the appeals and the applications stand dismissed due to reasons stated above.