

State of Haryana and Others RESPONDENT

Final Decision : Dismissed

deceitful means. This petition is nothing short of an abuse of the process of Court.

2. Petitioners, which are stated to be registered Trust and Samiti, are stated to be working for the welfare of the people of Delhi and adjacent areas of Delhi. It is the case of the petitioners that representatives of residents of A.C. Nagar, Neelam Bata Road, Faridabad, approached them and made grievances that they are in peaceful possession of their colony aforesaid for the last 40 years and the Nagar Nigam (Municipal Corporation) is making attempt to evict them without adopting any procedure of law. The petitioners, through their employee and agents, are stated to have made survey of the area in question and found that the persons, who are residing there, are in peaceful and settled possession for the last 40 years and they ought not to be disturbed by the Municipal Corporation. From the survey conducted by the petitioners, it was, however, revealed that A.C.Nagar, Neelam Bata Road, Faridabad, is comprising of more than 10,000 families and they are in peaceful and settled possession and all the families are having their ration card, electricity bills, Water bills, telephone bills etc. since last 40 years. A.C. Nagar, Neelam Bata Road, Faridabad, is stated to have its own primary school and family health centre and all sanitary facilities are also available there. The respondent-Corporation, however, is making efforts to evict them from their peaceful possession, which is against the principles of natural justice and same would infringe fundamental rights of the residents of the same colony. It is then pleaded that the Corporation issued notice to almost all the residents on 9.5.2003 for giving reply to show cause as to why they should not be evicted under the Public Premises Act.

3. From the averments made in the petition and the submissions made by learned counsel representing the petitioners, as mentioned above, when the matter came up for hearing on 19.9.2000, it, prima facie, appeared to us that preceding the notice of eviction, there must have been an order of eviction, passed under the Public Premises Act or the provisions of some other Act. Order dated 19.9.2003 reads thus:-

"Notice u/s 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 as per the pleadings made in the petition itself was issued to the petitioners on 9.5.2003. Learned counsel, during the course of arguments, submits that the petitioners had responded to this notice and contested the matter. That being so, we are, prima facie, of the view that a judicial order holding the petitioners in unauthorised occupation of public premises ought to have been passed as it is thereafter that possession could be taken from them. There is no averment in the application that no judicial order, preceding order, Annexure P-5, vide which, the petitioners have been given 15 days to vacate the demised premises has been passed.

Confronted with this position learned counsel seeks adjournment to have further instructions in the matter.

List again on 22.9.2003."

4. When the matter came up for hearing on 22.9.2003, learned counsel representing the petitioners, on instructions, made a statement, which would be reflected from the order itself. Same reads thus:-

"On instructions, learned counsel for the petitioner has not stated that no judicial orders holding petitioner to be unauthorised occupant and the premises being public premises have been passed preceding eviction notice, Annexure P-5.

Stay dispossession, if no judicial order might have been passed ordering eviction of the petitioner after recording finding as mentioned above."

5. Vide order aforesaid even though, dispossession was stayed but last part of the order would still give an indication that the Court had a doubt even at that time that the statement made by learned counsel may not be correct and apprehension of the Court has come true after the respondents have filed written statement wherein it has, inter alia, been pleaded that the writ petition deserves to be dismissed on concealment of facts as the petitioners nowhere have disclosed the fact that the residents of A.C.Nagar, NIT, Faridabad had already filed Civil Writ Petition No. 2377 of 2003 titled as Mohan Chand Pandey and Ors. v. Union of India and Ors., for the same relief as claimed in the present petition, which was disposed of by a Division Bench of this Court on 18.2.2003 (Annexure R-3/1). Reading of order, Annexure R-3/1, would manifest that writ petition was disposed of on the statement made by Advocate General, Haryana to the effect that no action shall be taken against the petitioners in the writ petition or equally situated persons residing in the juggies/jhopries with the name A.C.Nagar, NIT, Faridabad, with out due procedure of law. In other words, if the petitioners in that writ petition and others are found in unauthorised possession, a proper notice would be issued to them and it is only thereafter that further action shall be taken. Fact of filing earlier writ petition, with the result already indicated above, it is urged during the course of arguments by learned counsel representing the respondents, even remotely has not been made in the present petition. In reply to CM No. 21745 of 2003, it has further been pleaded that the answering respondent, after conducting a survey, filed petitions under Sections 3, 4, 5 and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 before the Collector of their respective areas. Notices were issued to the petitioner and similar situated persons. The Collector, before whom the petitions were filed, passed orders on the petitions on 30.8.2003 and 29.8.2003 whereby the petitioners were declared encroacher, having unauthorised possession of the Government land and they were ordered to be evicted from the premises within 30 days. During the pendency of the petition, so much so even an appeal was filed before the Commissioner, which was dismissed, and it is only after the order of eviction that was passed by the Collector that notice u/s 5(1) of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 was issued to the residents of A.C.Nagar. Order passed by the Collector has been annexed as Annexure R-3/3 with the written statement.

6. A resume of the facts, as culled out from the pleadings, as mentioned above,

would, thus, demonstrate that the petitioners have indulged in whole sale concealment of facts. It is rather strange that even though on earlier two occasions, the Court had expressed its view, though prima facie, that eviction notice u/s 5(1) of the aforesaid Act should have been issued only after order of eviction was passed in appropriate proceedings, the petitioners yet dared to indulge in total falsehood. It is in these circumstances that we have mentioned in the very beginning of the order that proceedings of this petition are nothing short of an abuse of process of Court.

7. A Division Bench of this Court, in which one of V.K.Bali, J. was a member in *Nathu Ram and Ors. v. State of Haryana and Ors.*,¹ C.W.P. No. 16496 of 2001 and *Pipal Singh and Ors. v. State of Haryana and Ors.*,² 2004(1) R.C.R. (Civ29 (P&H)):C.W.P. No. 10368 of 2003 and number of other cases, has held that every citizen has a fundamental right of having an access to judicial process in the country right from Mufassil Court to the Apex Court and the Courts are duty bound to redress the grievances of the citizen of this country but, if, this right is sought to be exercised by a party to the lis, be it the petitioner or respondent by coming with complete falsehood, the Courts are equally duty bound to mulct such a party with heavy costs as, that it one of the reasons that dockets of all the Courts in the country are full, resulting into devoting very little time to genuinely contentious issues, which need speedy disposal. This petition, in our view, deserves to be dismissed with special costs, which are quantified at Rs.20,000/- So ordered.

8. If the petitioners may not voluntarily deposit the costs within a period of one month from today, it shall be open to the respondents to recover the same as arrears of land revenue, though Collector, Faridabad. A copy of this order be sent to the Collector, Faridabad. for compliance. Sd/- Mehtab S. Gill, J. R.MS. petition dismissed.