

(2001) 08 DEL CK 0131

In the Delhi High Court

Case No : CW No. 3104/01 and CMs 5441 and 9040-41/01

Shri Subhash Bindra

APPELLANT

Vs

Govt. of NCT and others

RESPONDENT

Date of Decision : 30-08-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17

Citation : (2002) 95 DLT 891 : (2002) 61 DRJ 265

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Mr. B. Krishan, for the Appellant; Mr. G.S. Sistani, Ms Zubeda Begum and Mr. Jinendra Jain, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—CM.9040/01, filed by the petitioner under Order VI Rule 17 CPC seeks amendment in the writ petition. None of the parties have any objection to this application being allowed. Application is accordingly allowed. The petitioner is permitted to amend the writ petition as prayed for. CM stands disposed of.

Rule.

With the consent of the parties, the matter is taken up today for final hearing.

2. This writ petition challenges the cancellation of license granted to respondent No.5-Delhi State Civil Supplies Corporation Ltd. for running the vend in Indian made Foreign Liquor at the premises owned by the petitioner bearing No.WZ-33, Krishna Puri, Tilak Nagar, New Delhi as per the Letter dated 22nd January, 2001.

3. The petitioner's case in his own words is as follows:

"Accordingly the petitioner became entitled to a regular Commission at the rate of Twelve and a half percent on the gross sale amount earned by the DSCSC Ltd. The said license was granted by the said authority after due and prior inspection

and physical verification of the premises of the petitioner by the Excise Department of the Government of National Capital Territory of Delhi, Delhi State Civil Supplies Corporation Ltd. and also by the Sub Divisional Magistrate of the area. The permission to run the Liquor and Beer Retail Outlet was further based on the "No Objection Certificate" given in favor of the petitioner by the Member of the Legislative Assembly of Tilak Nagar Constituency Shri Jas Pal Singh."

4. It appears that thereafter certain representations were made to the Local Councillor of the area, Shri Jaspal Singh, respondent No.7 by the residents of the concerned area and he accordingly wrote to the Minister of Finance, Delhi Administration for withdrawal of the NOC owing to the complaints made by the local residents of the area. Eventually, the license of the respondent No.5-DSCSC was cancelled on 21st of May, 2001 on the ground of illegal construction. The petitioner has chosen to challenge the aforesaid Order by his amended writ petition pleading that since he was deriving Twelve and a half per cent commission on the sales earned by respondent No.5, he was substantially affected by the order of cancellation in respect of respondent No.5 and the writ petition is, Therefore, maintainable.

5. In my view, the licensee which was granted the license is respondent No.5 who has chosen not to challenge the order of cancellation of the license. In this writ petition the petitioner cannot be collaterally permitted to be heard to challenge the said cancellation of the license on the plea that he is a beneficiary through the license in the absence of any challenge by the licensee itself. The petitioner has no independent stake in the license and is only a beneficiary of the licensee by virtue of commission said to earned by him and thus has no independent locus to prefer and maintain this writ petition.

5. Accordingly, the writ petition is dismissed with no orders as to costs. Interim order dated 21.5.2001 stands vacated.