

(2005) 07 DEL CK 0069
In the Delhi High Court
Case No : CONT. CAS (C) 536 of 2005

Smt. Sukhvinder Kaur

APPELLANT

Vs

Rakesh Mehta, Commissioner, MCD

RESPONDENT

Date of Decision : 29-07-2005

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 10, 12

Citation : (2005) 123 DLT 249 : (2005) 83 DRJ 505

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Vipin Sanghi, for the Appellant; Tarun Sharma, for the Respondent

Judgement

Mukul Mudgal, J.—Admit. With the consent of the learned counsel for the parties, the contempt petition is taken up for final hearing.

2. This contempt petition under Sections 10 and 12 of the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India read with Section 151 CPC seeks initiation of contempt proceeding against the respondent Commissioner, Municipal Corporation of Delhi, Tower Hall, Delhi for non-compliance of the directions issued by this Court in the judgment dated 20th October, 2003.

3. After considering the merits of the matter in respect of providing an alternate plot to the petitioner the learned Single Judge of this Court on 20th October, 2003 held as follows:-

"The question, however, remains as to who has to pay for it. The petitioner certainly does not have to. The MCD and the DDA are two public bodies who must settle their internal claims between themselves. Both the authorities are responsible to the petitioner for providing alternative plot in terms of the policy decision dated 16.2.1977. In case the two public bodies are not able to agree to a methodology, it is always open to them to refer the matter to the Committee of

Secretaries for the Delhi State set up in pursuance to the directions of the Supreme Court of India. In the alternative, they can file appropriate legal proceedings for settlement of their inter-se dispute but the same cannot deprive the petitioner of either the allotment or enjoyment of the plot in question. Thus, the respondents MCD and DDA are left to their remedies as mentioned aforesaid for settlement of their disputes.

20. A writ of mandamus is issued directing the respondent No. 2 DDA to hand over vacant and peaceful possession of the plot measuring 200 sq. yds., at site No. 18 bearing No. D-1/136A, Lajpat Nagar, New Delhi to the petitioner and to execute the deeds of title in favor of the petitioner on the petitioner executing necessary documents. The needful be done within a maximum period of two months from today."

4. The grievance of the petitioner is based upon the averment that there appears to be an inter se dispute between the MCD and the DDA as is evident from the letter dated 16th May, 2005 issued by the Commissioner, MCD to the Vice-Chairman, DDA. The said letter dated 16th May, 2005 reads as follows:-

"No. TP/G/2243/05 Dt. 16/5/05 Dear

Kindly refer to my d.o.letter No. TP/G/1470/05 dated 03.03.2005 (copy enclosed) regarding directions issued by the Hon"ble High Court of Delhi in CWP No. 3783 of 1996, regarding handing over the vacant and peaceful possession of plot of land measuring 200 sq. yds at site No. 18, Lajpat Nagar, New Delhi, to Smt. Sukhvinder Kaur.

The MCD is unable to take a view on her request for approval of building plan since ownership title is not clear. I shall be grateful if the matter is looked into personally and appropriate instructions issued to the officers concerned to carry out necessary modifications in the Lease Deed so that her request for approval of building plan could be considered.

With regards,

Yours sincerely,

(RAKESH MEHTA)"

5.The MCD has taken a stand that the perpetual lease deed issued in favor of the petitioner by the DDA. The said perpetual lease deed states as follows:-

"NOW THIS INDENTURE WITNESSETH that, in consideration of the amount of Rs. 1,10,58,440/- (Rupees One Crore Ten Lac Fifty Eight Thousand Four Hundred and Forty Only to be borne and settled between DDA & MCD as per the order of Hon"ble High Court of Delhi in WP.No. 3783 of 1996) paid towards premium before the execution of these presents(the receipt where of the Lesser hereby acknowledges) and of the rent hereinafter reserved and of the covenants on the part of the Lessee hereinafter contained, the Lesser both hereby demise unto the Lessee, All THAT plot of land being the residential Plot No. 136-A Block No. D-1

in the lay-out plan of Lajpat Nagar."

6. Consequent to the aforesaid perpetual lease deed the learned counsel for the respondent/MCD, Shri Tarun Sharma states that a letter dated 21st July, 2004 was written by the DDA which reads as follows:-

"While widening the road of Saket(80" wide road), the Municipal Corporation of Delhi demolished house No. 1670-A, Govind Puri Extn, Kalkaji measuring 200 sq. yards without paying any compensation to the owner of the house. The owner of the house moved the Hon"ble High Court of Delhi vide CWP No. 3783/96.

The Hon"ble High Court of Delhi vide its order dated 20.10.03 in CWP No. 3783/96 directed the MCD/DDA to allot a plot of equivalent size to the petitioner and directed that the MCD and DDA being two public bodies may settle their internal claims between themselves. Accordingly Smt. Sukhvinder Kaur has been allotted plot No. 136-A, Block D-I, Lajpat Nagar by DDA as per the directions of the Hon"ble Court. Possession of the plot has been handed over on 24.3.2004.

Since the demolition in question was carried out by MCD, the responsibility for compensating the petitioner under the terms of the High Court's order rests with the MCD. The cost of the plot in question is Rs. 1,10,58,440/-.

It is requested that a sum of Rs. 1,10,58,440/- (Rupees One Crore Ten Lac Fifty Eight Thousand Four Hundred and Forty Only) may please be paid to DDA towards the cost of the plot No. 136, Block D-I, Lajpat Nagar, New Delhi measuring 200 sq. yards at the rate of Rs. 66,139/- per sq. mtr. at the earliest."

7. It is submitted by the learned counsel for the MCD that the building plans cannot be approved unless this issue is settled. In my view in para 19 of the judgment dated 20th October, 2003 extracted above clearly directed the settlement of the disputes between the two public bodies and the rights of the petitioner were not to be impeded by inter se disputes between the two public bodies. In case the MCD has any grievance it is open to the MCD to seek appropriate proceeding against the DDA including the sorting out of this issue between the administrative heads of the two public bodies. Accordingly it is directed that the MCD shall consider and dispose off the approval plan submitted by the petitioner within 4 weeks from today. In case the approval is not granted or reasons for non-approval not communicated to the petitioner within the stipulated period of four weeks, it will be thereafter open to the petitioner to proceed with the construction on the plot in question on the presumption that the plans have been sanctioned by the MCD.

8. With the aforesaid directions, the contempt petition stands disposed off.

9. A copy of this order be given dusty to the counsel for the parties.