
(2010) 08 DEL CK 0180

In the Delhi High Court

Case No : Writ Petition (C) No. 4910 of 2010

Sohan Lal

APPELLANT

Vs

New Delhi Municipal Council and Others

RESPONDENT

Date of Decision : 06-08-2010

Acts Referred:

Citation : (2010) 08 DEL CK 0180

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Deepak Dewan, for the Appellant; Arjun Pant, for NDMC and Ravinder Aggarwal, for R-2 and 3, for the Respondent

Judgement

Rajiv Sahai Endlaw, J.—The petitioner claims to have been running/operating a taxi stand under licence from the respondent No. 1 NDMC from a pavement at Mandir Marg, New Delhi for the last 30-35 years. It is the case of the petitioner that the respondent No. 1 NDMC, on 25th April, 2010, arrived at the said taxi stand and threatened to dispossess the petitioner forcibly and without reason. The petitioner instituted a suit for injunction against the respondent No. 1 NDMC in the Court of the Civil Judge, Delhi seeking direction to restrain the NDMC from dispossessing him. There was no interim order in the said suit. During the pendency of the said suit, the petitioner was dispossessed, according to him, on 9th June, 2010. The petitioner has now filed this writ petition claiming the relief of repossession of the same site. The counsel for the petitioner states that the suit earlier filed has become infructuous upon the petitioner being dispossessed.

2. The petition came up first before this Court on 26th July, 2010 when it was inquired from the counsel for the petitioner as to under what right/policy is the petitioner claiming the right of repossession. The counsel had sought time to reply. The counsel for the respondent No. 1 NDMC appearing on advance notice was also directed to obtain instructions with respect to the policy qua such taxi stand booths and as to till which date the licence of the petitioner was valid and whether any intimation was given to the petitioner of the licence having come to

an end or of having been terminated.

3. The counsel for the petitioner has not filed any further documents. He reiterates that the petitioner having remained on the site for long, has a right for possession. However, in view of the admitted position of the said long possession/occupation being with the permission and under licence of the respondent No. 1 NDMC, that alone would not vest any right in the petitioner. The counsel for the petitioner on inquiry fairly admits that the licence of the petitioner was not being renewed for the last several years. He however places emphasis on the letter dated 25th March, 2004 of the respondent No. 1 NDMC directing the shifting of the booth of the petitioner to another location and on the letter dated 1st April, 2005 of the respondent No. 1 NDMC demanding arrears of licence fee from the petitioner till the end of the month of March, 2005. However, the same do not advance the case of the petitioner. There is nothing to show that the occupation by the petitioner after 31st March, 2005 was authorized. Else, the street/pavement from which/where the taxi stand booth of the petitioner so permitted to run vests in the respondent No. 1 NDMC and the petitioner has no right to the same.

4. The counsel for the respondent NDMC though has not shown any policy, has placed before this Court, the order dated 25th April, 2005 of the respondent NDMC deleting the site from which the petitioner was functioning from the approved list of taxi stand booths in the NDMC area and also holding the operation of the business by the petitioner from another site in the vicinity to be unauthorized. He has also placed before this Court a copy of the letter dated 13th June, 2005 of the NDMC to the petitioner rejecting the representation of the petitioner for allotment of an alternative site. Attention is also invited to the Resolution No. 16 dated 18th February, 1992 of the NDMC for phasing out of the taxi stand booth from the area and proposing the operation of wireless operated taxi service. It is also stated that the site where the taxi stand of the petitioner was located was required by the Ministry of Urban Development of the Government of India for redevelopment and for this reason also the petitioner cannot be allowed to reoccupy the same.

5. In the aforesaid state of affairs, no order permitting the petitioner to reoccupy the site as claimed can be granted. In so far as the case of the petitioner of dispossession without notice is concerned, the petitioner, if entitled to, may prefer a claim against the respondent No. 1 NDMC for damages. The taxi stand booths as aforesaid appears to be in the same position/category as tehbazari/hawking sites, licences wherefore are now governed by the National Policy on Urban Street Vendors, 2004. The dismissal of this petition would not come in the way of the petitioner approaching the Zonal Vending Committee of the respondent No. 1 NDMC or any other entity under the said Policy, if so entitled, to claim relocation.

With the aforesaid directions, the petition is disposed of. No order as to costs.