

(2001) 12 DEL CK 0111

In the Delhi High Court

Case No : CCP 76 of 2000

Star Residents Society (Registered) and Others

APPELLANT

Vs

M.N. Bhardwaj and Others

RESPONDENT

Date of Decision : 06-12-2001

Acts Referred:

Citation : (2002) CriLJ 870 : (2002) 95 DLT 911

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Yogesh Sharma, for the Appellant; S.K. Singhla, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Rule.

With the consent of the parties, writ petition is taken up for disposal.

2. The petitioner seeks initiation of contempt proceedings against the respondents for violating against the respondents for violating the orders dated 23.4.1999 and 19.1.2000, by which status quo was directed.

3. Counsel for the petitioner has submitted that vide order dated 23.4.1999 this court had directed status quo. Unfortunately the petition was dismissed in default on 14.7.1999. The petitioner moved an application for restoration of the same, of which notice was issued on 30.7.1999. Respondents sought time to file reply again on 8.10.1999. It is the petitioner's case that the respondents despite the pendency of the application for restoration and knowledge of the earlier order of status quo, carried out the construction in November 1999. Eventually the writ petition was restored on 19.1.2000. Learned counsel also produced on record photographs showing the various stages of construction in the month of November 1999. It is the admitted case of parties that between 14.7.1999 and 18.1.2000, writ petition remained dismissed till it was restored on the 19.1.2000. Hence there was no order of status quo operative during this intervening period.

Learned counsel attempted to urge that the respondents had knowledge of the application for restoration of the earlier order.

4. Be it may, it would not be sufficient to proceed for initiating proceedings for contempt, which require blatant defiance of an existing order, which was missing in this case. Counsel then attempted to urge that even after 19.1.2000, construction was carried out. He placed reliance on photographs taken on 26.1.2000 and 7.2.2000 to show the progress in construction. Examination of the photographs prima facie shows that the shuttering had been removed. Although on the first flush, it appears that there is progress of construction work. But a careful examination reveals it to be case of removal of shuttering. In any case it is not one of those cases where it can be stated with certainty that there has been contumacious defiance of the order passed, which is required for initiating proceedings for contempt.

5. In this view of the matter, the contempt petition is dismissed.