

(2004) 03 DEL CK 0017

In the Delhi High Court

Case No : Writ Petition (C) . 1340/88 and CM. 1450 of 2004

Victory Carpets and Another

APPELLANT

Vs

V.P. (O). cum G.M. Ashok Hotel and Others

RESPONDENT

Date of Decision : 11-03-2004

Acts Referred:

Citation : (2004) 73 DRJ 636

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : H.L. Tikku and Yashmeet, for the Appellant; Naresh Kaushik, for the Respondent

Judgement

Manmohan Sarin, J.—This is a writ petition, seeking quashing of order dated 3.6.1988, passed by the Additional District Judge, Delhi, dismissing the appeal Nos.116/87 and 118/87, filed by the petitioner against the composite order of eviction and license fee payment of Rs.4,15,276/- together with interest @ 18% per annum from 2.8.1985. The learned Additional District Judge dis-allowed the interest. He granted time to vacate and pay the license fee. Petitioner also seeks to restrain the respondents from proceedings for eviction against the petitioner under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

2. Notice to show cause in the writ petition was issued as far back as 7.7.1988 and dis-possession of the petitioner No.2 was stayed, subject to deposit of Rs.50,000/- within 15 days and another sum of Rs.50,000/- within one month thereafter. From time to time, directions were given with regard to deposit of amounts in Installments and interim order continued.

3. Petitioner moved CM.1450/04 in this writ petition. Notice of this CM was issued to the respondents and reply has been filed. Today CM.1450/04 was listed for hearing and the prayer made by the petitioner in the CM is to dispose of the writ petition in terms of settlement, recorded by respondent No.2 in the meeting

held on 4.10.2001, between petitioner No.2 and respondent No.1. Petitioner has also prayed for setting aside of the order dated 10.10.1987, passed by respondent No.2 and order dated 3.6.1988, passed by respondent No.3. In view of settlement dated 4.10.2001, petitioner also seeks dismissal of the application dated 2.12.1995, filed u/s 7 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971.

4. I have heard counsel for the parties. With the consent of the parties, writ petition itself is taken up for disposal.

5. Reply to this CM has been filed. Respondent No.1 in reply raised its earlier objection with regard to the conduct of the petitioner in submitting tenders, purported to be on behalf of four parties but under the same or connected ownership. Be that as it may, learned counsel for respondent No.1 does not deny the factum of the decision of the Committee for resolution of disputes regarding license fee. As a matter of fact, photocopy of the proceedings of the said Committee have been enclosed by the petitioner with the CM.

6. After some arguments, it is agreed between the parties that computation, as given by respondent No.1 in para 2(O) of the reply to the CM No.1450/04 would be applicable. Learned senior counsel for the petitioner had initially sought to urge that the rationale of the Committee's decision was to give parity in rates to the petitioner with M/s.A.Ahmed Joo. However, I find that in the proceedings, at the relevant place, the expression used is "enhancement" in fee. Hence, a downward revision was not contemplated or accepted by the Committee. It is in this background that after some arguments, learned senior counsel for the petitioner on instructions from petitioner No.2, who is present in Court, agreed to the implementation of the payment of dues on the basis, as recorded in para 2(O) of the reply to CM.1450/04. The computation given is up to 1.8.2003. It is agreed that the license fee from 1.8.2003 shall also continue to be paid at the annual rate of Rs.2,24,100/- up to 31.7.2004. Respondent No.1 shall notify the petitioner the amount payable in terms of reply given in para 2(O) and taking into account the payment of charges at the last rate up to 31.7.2004. Mr.H.L.Tikku states that the entire amount would be paid in four monthly Installments, ending 31.7.2004. Mr.Tikku submits that petitioner would, within two weeks from today, give his proposal for grant of a license w.e.f., 1.8.2004 and the terms therefore. In case parties are able to reach a settlement and the respondent No.1 decides to grant a license, petitioner would continue to occupy the shop under the license to be granted. In case, proposal is not accepted, respondent No.1 shall be free to call for fresh tenders w.e.f., 1.8.2004 in respect of the shop in question. Petitioner would also be entitled to participate in the said tender.

7. In view of the aforesaid arrangement, learned senior counsel for the petitioner does not press the challenge to the eviction orders and payment of license fee. Parties shall abide by the aforesaid arrangement.

Writ petition stands disposed of in the above terms.