

UNION OF INDIA
v.
RESHMA YADAV AND ORS.

OCTOBER 12, 2006

[H.K. SEMA AND P.K. BALASUBRAMANYAN, JJ.]

Damages/Compensation—Liability to pay—Unauthorized occupation of shops/stalls despite court's order to deliver vacant possession—Highest bidder deprived occupation of shops/stalls thereby huge loss to exchequer for wilful violation of court's order—Hence, contemnors liable to pay damages/arrears of rent for the specified period—Estate Officer cannot exercise such power in terms of the 1971 Act since entire cause of action did not arise in a proceeding initiated under the Act—Public Premises (Eviction of Unauthorised Occupants) Act, 1971—Section 7.

In a writ petition, allotment of shops/stalls was challenged on the ground of illegality. High Court directed cancellation of allotment and framing of a policy regarding allotment of shops/stalls, and that allottees in possession not selected in the allotment, to vacate the shops/stalls within three months. Pursuant thereto, the policy was revised. Tenders were invited for allotment of shops/stalls. Respondents did not participate in the tender nor their names were amongst the persons selected in the tenders opened and remained unauthorized occupants of the shops/stalls. Appellant-Union of India issued notices to the respondents to vacate the shops and hand over the peaceful possession but the respondents failed to do so. Thereafter, contempt petition was filed, however, the same was dropped later since the respondents delivered possession of the stalls/shops.

The present application has been filed for the direction to the respondents-contemnors to pay damages/compensation for their use and unauthorized occupation of shops/stalls in their possession.

Respondents-contemnors contended that this Court is not a proper forum to grant such prayer; and that such powers can be exercised by the Estate Officer in terms of section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

A Disposing of the IA's, the Court

HELD: The entire cause of action for the direction to the respondents-contemnors to pay damages/compensation for their use and unauthorized occupation of shops/stalls in their possession arose not in a proceeding initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 but for wilful violation of this Court's Order. The respondents neither participated in the tender nor their names were included from amongst the select list and remained unauthorized occupants depriving the highest bidder to occupy the shops/stalls thereby incurring huge loss to the exchequer by reason of their contemptuous misbehaviour violating the order of the Highest Court of the land. This would warrant the respondents to pay rent/damages at the rate quoted by the highest bidder against their shops/stalls for their unauthorised use and occupation till the date they delivered vacant possession as per the chart furnished giving details of the arrears of rent/damages payable by the contemnors. Therefore, the respondents are directed to pay the arrears of rent/damages within the period specified. [216-A-D]

D CIVIL ORIGINAL JURISDICTION : I.A. No. 54 in Contempt Petition (C) No. 158/1998.

IN

E Writ Petition (Civil) No. 585 of 1994.

(Under Article 32 of the Constitution of India.)

Ranjeet Kumar, (A.C.), Indira Sawhney, R.S. Rana, V.K. Verma and Shreekant N. Terdal for the Petitioner.

F Shiv Sagar Tiwari, Krishna Kumar, M.C. Dhingra. R.N. Keshwani, Pratibha Jain, Rajiv K. Garg, Ashish Garg, K.K. Gupta, Rani Chhabra, Prem Malhotra and P. Parmeswaran for the Respondents.

The Judgment of the Court was delivered by

G H.K.SEMA, J. Heard the parties.

Writ Petition (C) No.585 of 1994 was disposed of by this Court on 11.10.1996 *inter alia* with the following directions:

H "Now, to take care of this illegality, we have to take two steps. First,

cancel the allotments. To decide as to who should get the shops/ stalls, the Government would first consider whether its policy of 1994, and categorization made by it need alteration in any way. While undertaking this work, the Government would first consider whether its policy of 1994 and categorization made by it need alteration in any way. While undertaking this work, the Government would make such provisions in the policy which are just and fair. After the policy has been framed the shops/stalls would be allotted as per the policy by following a procedure having the sanction of law. In case it would be that any of the present allottee would not be the person so selected, he/she shall be asked to vacate the shop/stall by giving three months time. We should require the Government to formulate the policy within two months and thereafter to complete the exercise of allotment within two months. Till then the present allottees would be allowed to continue.

Pursuant to the aforesaid direction, the policy was revised by an Order dated 9.12.1996. The dispute involved is with regard to allotment of shop/ stalls in Lodhi Road Complex I and II, New Delhi. The tenders were called. The tenders were opened in the presence of tenderers on 24.2.1997 at 3.00 P.M. As no tenders were received in respect of 6 shops/stalls in Lodhi Road Complex-II, New Delhi on 24.2.1997. Further tenders were invited in respect of the said 6 shops/stalls, which were opened in the presence of tenderers on 26.5.1997. However, no tender was received in respect of one shop (shop No.1, Lodhi Road Complex-II, New Delhi). Therefore, fresh tenders were invited in respect of shop No.1 but no tender was received. Therefore, again tender was held on 24.4.1998 in respect of Lodhi Road Complex-II, New Delhi.

Undisputedly, in the aforesaid tenders the respondents numbering 31 either did not participate or find place amongst the persons so selected in tenders opened on 24.2.1997 and 26.5.1997. They were asked to vacate the shops/stalls noted against their names and hand over the peaceful and vacant possession to the concerned CPWD within three months from the date of issuance of notice.

Having failed to comply with the notices, Contempt Petition (C) No.158 of 1998 was initiated against the respondents. However, the same was dropped by an order dated 13th December, 2001 since the vacant possession was already delivered. The order dated 13th December, 2001 was in the following terms:-

A “Since the possession has already been delivered, the contempt proceeding is dropped”.

I.A.No.54 has been filed by Union of India for direction to the alleged contemnors to pay damages/compensation for their use and unauthorised occupation of shops/stalls in their possession, after the orders of this Court.

B This Court issued notice to the respondents in I.A.No.54 on 16.9.2002.

On 14.3.2005 this Court passed the following order:-

C “The applicant—Union of India is directed to file a chart, within two weeks, giving the date of vacation of each of the respondents and the amount due till date of vacation. The chart shall indicate the date of which respective respondents were required to vacate and also the date of actual vacation along with the rate at which the arrears have been calculated”.

D Pursuant to the aforesaid order, Union of India filed a detailed chart giving the date of vacation of each of the respondents and amount due till the date of vacation. The date of which respondents were required to vacate and also the date of actual vacation along with the rate at which the arrears have been calculated. The chart detailing the arrears of rent/damages payable by the contemnors is as follows:-

E **DETAILS OF ARREARS OF DAMAGES PAYABLE BY THE
CONTEMNORS**

F	S.No.	Shop/ Stall No.	Name of Contemnor/ Occupant	Date on which respond- ents were required to vacate	Date of actual arrears calculated at the vacation	Rate quoted by highest bidder (Rs.)	Amount due till the date of vacation (Rs.)
	1.	Shop No. 6 LRC.1	Smt. Reshma Yadav	25.6.97	17.7.2001	9410/-	458723/-
G	2.	Shop No. 8 LRC.1	Sh. Sant Lal Yadav	25.6.97	17.7.2001	8000/-	389988/-
H	3.	Shop No. 9 LRC-1	Smt. Tara Chowdhary	25.6.97	8.11.2001	16,550/-	868324/-

4.	Shop No.10 LRC.1	Km. N. Lalitha	25.6.97	23.5.2003	10.893/-	772771/-	A
5.	Shop No.12 LRC-1	Sh. Deepak Kumar	25.6.97	17.7.2001	12.100/-	589856/-	B
6.	Stall No.2 LRC-1	Smt. Neena Totalani	25.6.97	17.7.2001	2400/-	116997/-	
7.	Stall No.3 LRC-1	Sh. Intezar Ahmed	25.6.97	17.7.2001	3407/-	166087/-	C
8.	Stall No.4 LRC-1	Mrs. Shahnaz Bano	25.6.97	17.7.2001	3194/-	165927/-	D
9.	Stall No.5 LRC-1	Sh. Sudhir Tiwari	25.6.97	17.7.2001	3502/-	170718/-	
10.	Stall No.6 LRC-1	Smt. Renu Mathur	25.6.97	17.7.2001	4224/-	205914/-	E
11.	Stall No.8 LRC-1	Smt. Harvin- der Kaur	25.6.97	17.7.2001	4680/-	228143/-	F
12.	Stall No.10 LRC-1	Sh. Harish	25.6.97	30.7.1999	4503/-	113334/-	
13.	Stall No.14 LRC-1	Sh. Ashutosh Bhardwaj	25.6.97	25.8.1999	3501/-	91050/-	G
14.	Stall No.15 LRC-1	Sh. Banarasi Dass	25.6.97	17.7.2001	2720/-	132596/-	H

A	15.	Stall No.16 LRC-1	Sh.Jai Prakash Gupta	25.6.97	25.7.01	3905/-	191371/-
	16.	Stall No.17 LRC-1	Sh.Percy Pater James	25.6.97	17.7.2001	3505/-	170864/-
B	17.	Stall No.18 LRC-1	Sh.Harpreet Singh	25.6.97	17.7.2001	3565/-	173788/-
	18.	Stall No. 19 LRC-1	Sh. Madan Mohan Sharma	25.6.97	17.7.2001	3705/-	180613/-
C	19.	Shop No.1 LRC.11	Sh.Karma Doorjee	12.9.97	25.7.2001	12,605/-	585375/-
	20.	Shop No.2 LRC.11	Smt.Asha Singh	12.9.97	17.7.2001	6400/-	295564/-
D	21.	Shop No.3 LRC.11	Sh.Dharma Bahadur	12.9.97	17.4.1998	12033/-	86638/-
	22.	Shop No.4 LRC.11	Sh.KP Singh	12.9.97	3.5.2000	9155/-	290490/-
E	23.	Stall No.1 LRC.11	Sh. SS Sharma	25.6.97	24.7.2001	6100/-	298743/-
	24.	Stall No.2 LRC.11	Smt.Madhu	25.6.97	9.6.1998	3600/-	41400/-
F	25.	Stall No.5 LRC.11	Sh.Gurbax Lal	25.6.97	11.8.1998	2500/-	93887/-

H

26.	Stall No. 6 LRC.11	Sh.Gulshan Dhawan	25.6.97	17.7.2001	6100/-	297366/-	A
27.	Shop No.3 Hanuman Road	Sh. Ashish Kumar	25.6.97	17.4.1998	11105/-	108459/-	B
28.	Stall No.5 Hanuman Road	Smt.Pushpa Devi Sing	25.6.97	5.8.1999	4205/-	106645/-	C
29.	Stall No.8 Hanuman Road	Sh.Sushil Sinha	25.6.97	16.12.1998	3755/-	66525/-	D
30.	Stall No.12 Hanuman Road	Smt.Kusum Sharma	25.6.97	17.7.2001	5240/-	255442/-	E
31.	Shop No.2 Hanuman Road	Smt. Tulsi Balodi	25.6.97	16.7.2001	9200/-	448189/-	F

Mr. Ranjeet Kumar learned *amicus curiae* appearing for Union of India contended that the respondents contumaciously flouted the orders passed by this Court by remaining unauthorized occupants of shops/stalls and they are liable to pay the damages/arrears for the period they have occupied the shops/stalls unauthorisedly till the vacant possession was delivered to the applicant. G

Per contra learned counsel appearing for the respondents contended that this Court is not a proper forum to grant such prayer. According to learned counsel, such powers can be exercised by the Estate Officer in terms H

A of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter the Act). We are unable to countenance with this contention of the respondents. The entire cause of action as recited above arose not in a proceeding initiated under the Act but for willful violation of this Court's Order. The fact remained that the respondents neither participated in the tender nor their names were included from amongst the select list and remained B unauthorized occupants depriving the highest bidder to occupy the shop/stall thereby incurring huge loss to the exchequer by reason of their contemptuous misbehaviour violating the order of the Highest Court of the land would warrant to pay rent/damages at the rate quoted by the highest bidder against their shops/stalls for their unauthorised use and occupation C till the date they delivered vacant possession as per the chart furnished by the learned *amicus curiae*.

In the result I.A.No.54 is allowed. The respondents are directed to pay the arrears of rent/damages as per the chart within a period of two months from today. If the amounts are not paid within the stipulated time, the petitioner D would be entitled to recover the respective amounts from the respective respondents by all available coercive procedures. In that event, the respondents would be liable to pay interest at 6% per annum on the amounts payable from the date of this order till its recovery. I.A.No.54 is allowed and disposed of accordingly.

N.J.

I.A.S. disposed of.