

Daljit Singh Dalal (Dead) Through Lrs.

Vs

Union of India and Others

Writ Petition (C) No. 117 of 1997

(Smt Sujata V. Manohar, J.)

(CJI A. M. Ahmadi, S. C. Sen, Sujata V. Manohar JJ)

10.03.1997

JUDGMENT

SMT SUJATA V. MANOHAR, J.

1. This is a writ petition under Article 32 of the Constitution of India filed some time in May 1993 by the original petitioner Daljit Singh Dalal in person. It is said that this petition is in public interest. The original petitioner died soon after the filing of the petition. The son of the original petitioner, Bajrang Singh (hereinafter referred to as "the petitioner"), has argued the present petition as a party-in-person.

2. Although the petitioner Bajrang Singh claims to be a lawyer, the petition does not set out either the facts or the contentions very clearly. Apparently, the disputed premises belonging to the original petitioner and his family members consist of Premises Nos. 2505, 2506 and 2670, Basti Punjabiyan, Subzi Mandi, Delhi. According to the petitioner, on 13-5-1993, portions of House No. 2670 were demolished by the Municipal Corporation. According to the petitioner his father, (that is to say the original petitioner), his daughter, daughter-in-law and her three small children were trapped on the second floor of that house. Four storeys of that house were demolished on 13-5-1993. The present petitioner filed a writ petition before the Delhi High Court on that day and obtained an order for the rescue of his family members who are trapped. These members were rescued on 14-5-1993. The original petitioner was in a coma and was taken to hospital. After some days he died.

3. According to the petitioner, the demolition was a mala fide act on the part of the Municipal Corporation at the instigation of the forth respondent who did not like the activities of the petitioner and his father in giving shelter to windows of Sikhs killed in the Delhi riots. The petitioner has claimed in the petition compensation for the harassment caused to the family members and has prayed for a direction for rebuilding a Satnami Temple which, apparently, was established in the demolished building. He has also asked for payment of full compensation to himself. At the hearing, however, the petitioner said that he would not desire any compensation and he wanted action to be taken against the respondents.

4. There are several disputed questions of fact in this petition. The Station House Officer, Subzi Mandi Police Station, Delhi, who is Respondent 8, has filed a counter-affidavit. The Municipal Corporation of Delhi has also filed its counter-affidavit. In these affidavits, it is pointed out that there is no public interest involved in this writ petition. When the premises in dispute were inspected by the officers of the Municipal Corporation of Delhi, it was found that the petitioner

and/or his father had made substantial unauthorised and illegal constructions on this property by encroaching upon the public road/public land. The construction so made was obstructing the public at large. These illegal constructions were on public land, that is to say, the road in front of the premises and consisted of a ground floor, mezzanine, first and second floors.

5. There were various proceedings taken out by the petitioner and/or his father before various courts in Delhi in order to prevent demolition of these unauthorised constructions. On or about 5-3-1993 the Additional District Judge, Delhi dismissed Misc. Petition No. 193 of 1992 entitled Daljit Singh v. MCD by his Order dated 5-3-1993. In the order he, inter alia, observed that the appellant, (the original petitioner before us), had made large-scale unauthorised constructions not only on the ground floor but on all the floors. He further said :

"MCD has obligation to demolish all these unauthorised structures raised by the plaintiff in the grab of repair or by misuse of judicial process. The initial structure allowed to the appellant was only one garage of 15' x 10' and an area of 20' x 10' in front of this garage and staircase. All that exists apart from these premises is unauthorised and must be demolished. The review petition is hereby dismissed."

6. Accordingly, in discharge of its statutory obligations the Municipal Corporation of Delhi, with the assistance of police, removed one covered enclosure constructed on the public land after informing the occupants of that enclosure. On 13-5-1993, the Municipal Corporation removed the illegal mezzanine, first and second floors standing on public road in front of Property No. 2670. The staircase of the premises was not demolished. The petitioner and his family members were duly informed about the action taken. Instead of coming out of the premises they went to the back portion which was not touched in any manner. The younger brother of the petitioner who was a lawyer was informed by the Municipal Corporation that in case he wanted to shift the family members the authorities would give full assistance. However, he did not agree to shifting the family members. The respondents have denied that the staircase was blocked in any manner. On the contrary, they allege that the petitioner and/or his family members did not allow the "malba" to be removed.

7. In the counter-affidavit of the Station House Officer, Subzi Mandi Police Station, Delhi it is further pointed out that the original petitioner, Daljit Singh Dalal, was an old patient of septicaemia and he was undergoing treatment at St. Stephen's Hospital. He was discharged only on 3-5-1993 from the hospital but he was in an unconscious condition. The subsequent death of the original petitioner is not connected in any manner with the demolition. He has said that no harm or harassment was caused by the officials or by the police to the petitioner or his family members. After the present petitioner obtained an order of the Delhi High Court on 13-5-1993 the police offered every help for the rescue of the original petitioner on 14-5-1993 but this help was refused by the present petitioner and his family members. Again on 15-5-1993 fire brigade and ambulance were arranged by the local police for the purpose of removing the original petitioner. But his close relatives refused to permit the removal of the original petitioner. But his close relatives refused to permit the removal of the original petitioner on the ground that their family doctor had given the necessary medicine and they did not want the original petitioner to be removed. Again on 16-5-1993 the government doctor was arranged. It was after the original petitioner was checked by the government doctor that he was brought down from the second floor and was sent to St. Stephen's Hospital in an ambulance. The affidavits also mention various litigations which have been launched by the original petitioner in various courts in Delhi in order to prevent the demolition of illegal constructions carried out by him.

8. There are thus several disputed questions of fact. We also fail to see any public interest involved in this petition. The disputes raised by the petitioner being factual disputes, cannot be examined in a writ petition under Article 32 of the Constitution. The petition is, therefore, dismissed with no order as to costs.