

SUPREME COURT OF INDIA

Union of India

Vs

Reshma Yadav and Others

Writ Petition (Civil) 585 of 1994

(H. K. Sema and P. K. Balasubramanyan, JJ)

12.10.2006

JUDGMENT

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:

"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:-

"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. 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:-

"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".

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:-

DETAIL OF ARREARS OF DAMAGES PAYABLE BY THE CONTEMNORS

S.No.	Shop/Stall No.	Name of Cont./occup.	Date of respondents	Date of actual
arrears	Rate quoted	Amount due till the date		calculated at the
Vacation	by highest bidder	of Vacation	were required to vacate	calculated at the
1	Shop No.6	LRC.1 Smt.Reshma Yadav	25.6.97	
17.7.2001		9410/- 458723/-		
2.	Shop No.8	LRC.1 Sh.Sant Lal Yadav	25.6.97	
17.7.2001		8000/- 389988/-		
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/-		
5.	Shop No.12	LRC-1 Sh.Deepak Kumar	25.6.97	
17.7.2001		12,100/- 589856/-		

6.	Stall 17.7.2001	No.2	LRC-1	Smt. Neena 2400/-	Totalani 116997/-	25.6.97	
7.	Stall 17.7.2001	No.3	LRC-1	Sh.Intezar 3407/-	Ahmed 166087/-	25.6.97	
8.	Stall 17.7.2001	No.4	LRC-1	Mrs.Shahnaz 3194/-	Bano 165927/-	25.6.97	
9.	Stall 17.7.2001	No.5	LRC-1	Sh.Sudhir 3502/-	Tiwari 170718/-	25.6.97	
10.	Stall 17.7.2001	No.6	LRC-1	Smt.Renu 4224/-	Mathur 205914/-	25.6.97	
11.	Stall 17.7.2001	No.8	LRC-1	Smt.Harvin- 4680/-	der Kaur 228143/-	25.6.97	
12.	Stall 30.7.1999	No.10	LRC-1	Sh.Harish 4503/-		25.6.97	
13.	Stall 17.7.2001	No.14	LRC-1	Sh.Ashutosh 3501/-	Bhardwaj 91050/-	25.6.97	25.8.1999
14.	Stall 17.7.2001	No.15	LRC-1	Sh.Banarasi 2720/-	Dass 132596/-	25.6.97	
15.	Stall 2001	No.16	LRC-1	Sh.Jai 3905/-	Prakash Gupta 191371/-	25.6.97	25.7.
16.	Stall	No.17	LRC-1	Sh.Percy	Pater James	25.6.97	

	17.7.2001		3505/-		170864/-
17. Stall No.18	LRC-1	Sh.Harpreet Singh	3565/-	73788/-	25.6.97
17.7.2001					
18. Stall No.19	LRC-1	Sh.Madan Mohan Sharma	3705/-	180613/-	25.6.97
17.7.2001					
19.Shop No.1	LRC.11	Sh.Karma Doorjee	12,605/-	585375/-	12.9.97
25.7.2001					
20. Shop No.2	LRC.11	Smt.Asha Singh	6400/-	295564/-	12.9.97
17.7.2001					
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/-
23. Stall No.1	LRC.11	Sh.SS Sharma			25.6.97 24.7.2001 16100/- 298743/-
24. Stall No.2	LRC.11	Smt.Madhu			25.6.97 9.6.1998 3600/- 41400/-
25. Stall No.5	LRC.11	Sh.Gurbax Lal			25.6.97 11.8.1998 2500/- 93887/-
26. Stall No.6	LRC.11	Sh.Gulshan Dhawan			25.6.97 17.7.2001 6100/- 297366/-
27. Shop No.3	Hanu- man Road	Sh.Ashish Kumar			25.6.97 17.4.1998 11105/- 108459/-

28. Stall No.5 Hanu- man Road Smt.Pushpa Devi Sing 25.6.97 5.8.1999 4205/- 106645/-

29.StallNo.8Hanu-manRoadSh.SushilSinha25.6.97 16.12.1998 3755/- 66525/-

30.Stall No.12 Hanu-man RoadSmt.Kusum Sharma25.6.97 17.7.2001 5240/- 255442/-

31.Shop No.2 Hanu-Man RoadSmt. Tulsi Balodi 25.6.97 16.7.2001 9200/- 448189/-

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.

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 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 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 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 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.