

CASE NO.:
Writ Petition (civil) 585 of 1994

PETITIONER:
Union of India

RESPONDENT:
Reshma Yadav & Ors

DATE OF JUDGMENT: 12/10/2006

BENCH:
H.K.SEMA & P.K.BALASUBRAMANYAN

JUDGMENT:
J U D G M E N T
I.A.NO.54 IN CONTEMPT PETITION (c) NO.158/1998
IN
WRIT PETITION (CIVIL) NO. 585 OF 1994

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 24.2.1977. 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 Contemnor/ occupant	Date on which respond- ents were required
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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/-

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
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/-
8.
Stall
No.4
LRC-1
Mrs.Shahnaz
Bano
25.6.97
17.7.2001
3194/-
165927/-
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/-
11.
Stall
No.8
LRC-1
Smt.Harvin-
der Kaur

25.6.97
17.7.2001
4680/-
228143/-
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/-
14.
Stall
No.15
LRC-1
Sh.Banarasi
Dass
25.6.97
17.7.2001
2720/-
132596/-
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/-
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/-
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/-
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
6100/-
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.

Stall
No.8
Hanu-
man
Road
Sh.Sushil
Sinha
25.6.97
16.12.1998
3755/-
66525/-
30.
Stall
No.12

Hanu-
man
Road
Smt. Kusum
Sharma
25.6.97
17.7.2001
5240/-
255442/-
31.
Shop
No.2
Hanu-
man
Road
Smt. 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.