

Daulat Ram Pawar vs Govt Of Nct Of Delhi & Ors on 9 April, 2021

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 4469/2021 & CM APPL. 13656/2021
DAULAT RAM PAWAR Petitioner
Through: Mr. Ritesh Kumar and Mr.
Dheerendra Singh Bisht, Advocates.
(M:9891245343)

versus

GOVT OF NCT OF DELHI & ORS. Respondents
Through: Mr. Sameer Vashisht, Advocate
Mohd. Shakeib Naru, Adv. for R-5.
Ms. Oorjasvi Goswami, Advocate for
R-6 to 9.

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER

% 09.04.2021

1. This hearing has been done through video conferencing. CM APPL. 13656/2021 (for exemption)
2. Allowed, subject to all just exceptions. Application is disposed of. W.P. (C) 4469/2021
3. The present petition has been filed by an 81-year-old senior citizen who is seeking vacation of the property in question being, the first floor of B-7 Extension/75, Safdarjung Enclave, New Delhi (hereinafter, 'the suit premises').
4. The litigation has had a long history. The Petitioner, Mr. Daulat Ram Pawar, had filed an eviction petition against his son, Respondent No. 5 - Mr. Sunil Kumar Pawar; his daughter-in-law, Respondent No. 6 - Mrs. Jyotsana Pawar; his two grand-daughters, Respondent no. 7 - Miss Nandita Pawar, and Respondent No. 9 - Miss Yana Pawar (Minor); and his grandson, Respondent No. 8 - Mr. Aditya Raj Pawar.

5. The said eviction petition culminated in the order dated 23 rd March, 2018 passed by the Id. Divisional Commissioner who had directed the said Respondents to vacate the suit premises within a period of 15 days.

6. The said order of the Id. Divisional Commissioner was challenged before this Court by way of a writ petition bearing W.P.(C) No. 3413/2018 titled Sunil Pawar v. The Ld. Appellate Authority/Divisional Commissioner & Ors., which was disposed of vide order dated 10th May, 2018. By the said order, this Court had granted the Respondents a period of six months' time to vacate the suit premises.

7. Respondent No. 5/the son of the Petitioner, then approached the Supreme Court in SLP (C) No. 25386/2018 titled Sunil Pawar vs. State of GNCTD Delhi & Anr. The Supreme Court granted extension of time to vacate the suit premises till 30th April, 2019, vide order dated 8th October, 2018. Therein, Respondent No. 5/son of the Petitioner and his family were directed to hand over vacant and peaceful possession of the suit premises. An undertaking was directed to be filed to that effect, which was filed by Respondent No. 5/the son of the Petitioner, vide affidavit dated 26th October, 2018. The order of the Supreme Court dated 8th October 2018 reads as under:

"We do not find any good ground warranting our interference in the order of eviction passed by the trial court and affirmed the High Court.

The special leave petition is accordingly dismissed. In the facts and circumstances of the case and keeping in view the relationship of the parties, the petitioner is granted time till 30th April, 2019 to vacate and hand over peaceful and vacant possession of the suit premises subject to his furnishing usual undertaking before this Court within four weeks from today, stating that the petitioner shall clear all arrears of electricity charges and all other statutory dues and shall not create any third party rights.

We make it clear that in case of failure to hand over the vacant and peaceful possession, the petitioner shall be liable for contempt of this Court apart from the regular execution proceedings.

Pending applications, if any, shall also stand disposed of."

8. Thereafter, an application for extension of time to vacate the suit premises was also sought by Respondent No. 5, which was rejected by the Supreme Court vide order dated 8th May, 2019.

9. The grievance of the Petitioner now is that despite the specific orders of the Supreme Court, Respondents No. 6, 7 and 9 are not vacating the premises. It has been brought to the notice of the Court by Id. Counsel, Mr. Ritesh, that the two grand-daughters of the Petitioner, i.e., Respondents No. 7 and 9, had also preferred a suit for partition before this Court bearing CS(OS)350/2020 titled Nandita Pawar & Anr. v. Daulat Ram Pawar & Ors., in which an interim application was also filed praying for an injunction restraining the Petitioner/Defendants from compelling the Respondents/Plaintiffs to vacate the aforementioned premises. Thereafter, the Id. Single Judge, in

the suit for partition rejected the interim prayer for injunction vide order dated 17th November, 2020, with the following observations:

"5.2 A perusal of the assertions made, in this behalf, in the plaint, show that they lack specificity. There are no details as to how much money was secured by defendant no. 1 from his father for purchasing the property described as House No. 247-D, Arjun Nagar, New Delhi [in short "Arjun Nagar Property"].

5.3 This property, according to the plaintiffs, was bought by defendant no. 1 from the funds furnished by his father i.e. Late Babu Lal, which was, however, demolished by the DDA in 1975.

5.4 The suit property, according to the plaintiffs, was allotted, albeit, on a perpetual lease, in lieu of the Arjun Nagar property.

5.5 Mr. Verma says that the plaintiffs were not even born when the aforementioned transactions took place.

6. To my mind, since it is a suit for partition, in the pleadings, notwithstanding the age of the plaintiffs, there should have been a greater specificity qua this aspect of the matter. Clearly the plaintiffs are acting as proxies for defendant no. 4/Mr Sunil Pawar, that is, their father. If no one else, defendant no. 4/Mr Sunil Pawar would have these details.

6.1 Thus, for the aforesaid reasons, the relief sought in prayer clause (b) of the captioned application is rejected. 6.2 Furthermore, the matter is stood over for Mr. Singh to obtain instructions from defendant nos. 1 to 3 and, if necessary, file a reply to the captioned application, which, if filed, should be supported by an affidavit.

7. List the matter on 22.12.2020."

10. The Court thus, refused to extend protection to the two grand- daughters of the Petitioner. The ld. counsel for the Respondent, submits that there are proceedings pending between the Respondent no. 6/the daughter- in-law of the Petitioner and Respondent No. 5/the son of the Petitioner under the Protection of Women from Domestic Violence Act, 2005, and that Respondents No. 7 and 9, the two grand-daughters of the Petitioner do not have any other place to reside in. Respondent No.6 submits that no maintenance has also been paid to her and her two daughters by Respondent No.5.

11. The Court has perused the records. Insofar as the Respondents No. 5 & 8 are concerned, it is not disputed that Respondent No. 5 has vacated the premises on 5th April, 2019 and Respondent No. 8 is living with his maternal grandparents, somewhere in Gurugram. Only Respondents no. 6, 7 and 9 i.e., the daughter-in-law of the Petitioner and the two grand-daughters of the Petitioner are currently living in the suit premises. They have joined the proceedings today and submit that they have no other premises to live. The father of Respondent no. 6 was also present during proceedings.

Their submission is that they have nowhere to go and no maintenance is being paid by the Respondent no. 5 to them. Petitioner is a senior citizen who is living in the suit premises with his wife. They are stated to be more than 80 years of age. From the orders passed by the Supreme Court and the High court, it is clear that Respondents No. 6, 7 and 9 have to vacate the premises. However, Respondent no. 5 is also obliged to make some monetary payment in order to enable them to live in an alternative premise.

12. Clearly, the litigation has been quite long drawn between the Petitioner and Respondents No. 5 to 9. Respondents No. 5 to 9 have availed of various legal remedies which have been available to them, but have been unsuccessful. An undertaking given before the Supreme Court, as also the orders passed by this Court in the suit filed by the two grand-daughters of the Petitioner, cannot be completely negated by allowing the Respondents to continue to remain in the suit premises. After having heard the counsel for the parties, there can be no doubt that the premises would have to be vacated by the Respondents.

13. In the overall facts and circumstances of the present case, the following directions are issued: -

(i) Respondents No. 6, 7 & 9 shall vacate the suit premises on or before 25th April, 2021.

(ii) In view of the stand that Respondent No. 5 - Mr. Sunil Kumar Pawar is not paying any maintenance to Respondents No. 6 to 9 so as to enable them to find an alternate premise, Respondent No. 5 shall pay to Respondent No. 6 a sum of Rs. 15,000/- per month, within a period of one week from today. The said amount shall be paid on or before the 10th day of every month as an amount of maintenance to enable the said Respondents to find an alternate premise to reside in.

(iii) If the Respondents do not vacate the premises on 25th April, 2021, the Local Commissioner (hereinafter, 'LC'), Mr. R.L. Sinha, Advocate is appointed who shall visit the premises to ensure that vacant and peaceful possession is handed over. The DCP, South West District along with SHO of the concerned area shall render complete assistance to the LC. The LC shall execute the commission on 26th April, 2021. The LC shall permit the Respondents to take out all belongings from the suit premises, if not already taken. The compliance report be filed by the LC within a period of two weeks, thereafter. The LC fee is fixed at Rs. 15,000/- to be by the Petitioner prior to the execution of the Commission.

14. The petition is disposed of in these terms.

15. List for reporting compliance on 15th July, 2021.

PRATHIBA M. SINGH, J.

APRIL 9, 2021 mw/AP