

Supreme Court of India

Ramesh Chander vs Imtiaz Khan And Anr. on 24 March, 1998

Equivalent citations: JT 1998 (5) SC 335, (1998) 4 SCC 760

Bench: S Majmudar, M J Rao

ORDER Contempt Petition No. 524 of 1997

1. Learned counsel for the petitioner states that as she has already filed another contempt petition this petition does not survive. Hence, it is disposed of with no orders.

2. We have heard learned counsel for the parties. According to the learned counsel for 25 applicants, all of them have been found to be eligible squatters as per the Thareja Committee Report. If that is so, as per our order dated 4-2-1998 in Sodan Singh v. N.D.M.C. Mr. Chaturvedi who is entrusted with the task will consider the question of allotment of sites to eligible squatters as per Thareja Committee Report in the zones concerned and consequently the applicants' claim also will be considered by the said Committee for allotment of appropriate sites in accordance with the Report and the directions of this Court in the aforesaid judgment.

3. IA is disposed of accordingly.

4. In view of our order in Sodan Singh v. N.D.M.C., , this IA does not survive as the claim of the claimant is rejected by the Thareja Committee on merits. Hence, the IA is dismissed.

5. Learned counsel for the applicants says that the applicants have been found to be eligible squatters at respective places indicated in Thareja Committee Report. If that is so, it will be for the Chaturvedi Committee appointed by us pursuant to our order dated 4-2-1998 in Sodan Singh v. N.D.M.C.1 to look into these claims and if found true to allot suitable sites in the light of the direction contained in that judgment. IA is disposed of subject to these observations.

6. The claim of the applicant Smt Dulari Devi was adjudicated upon by the Thareja Committee and was found to be not sustainable as according to Shri Thareja the requirements as laid down by this Court by order dated 13-3-1992 were not fulfilled by her by furnishing proof and consequently she cannot be said to be a bona fide squatter. It is a pure finding of fact which cannot be interfered with. IA is dismissed accordingly.

7. At the request of the learned counsel for the applicant, four weeks' time granted to furnish copies of order dated 8-5-1990 and order on the review petition, if any filed before the Thareja Committee, copy of which application is filed as Annexure P-4 at p. 12 of the paper-book of the IA. List on 28-4-1998.

8. We find that on facts the Thareja Committee has held against the applicant by holding that the requirements of the scheme as laid down by this Court have not been fulfilled by the applicant and he is found to be squatting only after July 1987. The finding is that the claimant was not at the relevant place prior to July 1987. It is well justified. The IA is, therefore, disposed of with no orders.

9. The claim of the applicant has been rejected on consideration of relevant facts by the Thareja Committee. Even the review was rejected. A pure finding of fact is reached that the applicant has failed to show that he was squatting at the present place prior to the end of 1987. Hence this application is rejected.

10. This IA is for restoration of IA No. 84 of 1995 which was dismissed for default on 7-1-1998. We deem it fit in the interest of justice to recall that order and restore IA No. 84 of 1995 on the file of this Court. The said IA will be decided on 28-4-1997.

11. At the request of learned counsel for the petitioners, four weeks' time granted to enable him to file copies of the orders of the Thareja Committee by which the claims of the four applicants were rejected. List on 28-4-1998.

IA No 140

12. In the light of the Thareja Committee Report and order dated 1-2-1991 it is obvious that the applicant Ram Akshabar is found as an eligible squatter for a site admeasuring 6' x 4'. Till final allotment is done in his favour in terras of the judgment of this Court in Sedan Singh v. N.D.M.C.1 obviously the applicant will be entitled to carry on his trade in an area of 6' x 4' at the present place as noted by the Thareja Committee itself in the order and the said present place is noted by Shri Thareja on inspection as working in Malcha Marg area as found at p. 8 of the order of the Thareja Committee.

13. The site plan prepared by Shri Thareja and which is part of the order of Shri Thareja is found at p. 10 of this application. At this place the applicant will be entitled to continue to squat awaiting final orders of Shri Chaturvedi as per our decision aforesaid. It is made clear that the said squatting will be permitted to the applicant as indicated in the site plan with a sign 'X' below Electric Sub-Station, NDMC near NDMC Market, Malcha Marg. This will be subject to other directions contained in the order of 1-2-1991 which the applicant will have to comply with.

14. Subject to these clarifications and directions the IA is disposed of.

15. Learned counsel for the applicant states that a wrong order has come to be filed inadvertently in this application and the Thareja Committee's order in case of the present applicant Prasad Narain will have to be filed. For that purpose, four weeks' time granted as requested. List on 28-4-1998.

IA No. 142 of 1998

16. The applicant who claimed to be the bona fide genuine squatter prior to 1977, did not lodge his claim in writing as per the order of this Court in Sodan Singh Case (Supra) referred to in our judgment. The application at p. 17, Annexure 3 itself shows that on 21-5-1992 the applicant requested the Thareja Committee to grant one month's time from 21-5-1992 to file the grounds of claim. It is not in dispute that the cut-off date fixed by this Court for filing the claim was 20-2-1992. Hence, obviously it was beyond time and unfortunately for him by 21-5-1992 when he moved the

application for getting more time he did not think it fit to file the grounds of claim. Hence, the petitioner has missed the bus. No further relief could be granted to him. IA is disposed of.

IA No. 143 of 1998

17. Pure finding of fact is reached by the Thareja Committee. On consideration of the facts of this application it is found that none of the applicants is an eligible squatter. So far as Applicant 1, Hari Mandal is concerned, it is found that he was not squatting on his own but his brothers Gopal Mandal and Dinesh Mandal have already been granted reliefs. So far as Applicant 2, Umesh Mandal is concerned, he is not occupying the site but some other persons, i.e., Hari Singh or his son, Raju were instead found carrying on trade. Hence, the IA is dismissed.

IAs Nos. 144 and 145 of 1998

18. Learned counsel for the petitioners states that the applications of these applicants were rejected by the Thareja Committee. He wants to produce the copies of the orders of the Thareja Committee for supporting the present applications. Hence, list on 28-4-1998. IA No. 146 of 1998 19. Learned counsel for the petitioner states that so far as the claim made in the present application is concerned, it has worked out pursuant to our order dated 4-2-1998 and which has culminated in the order of the Thareja Committee. Hence, this IA is disposed of. We make it clear that we make no observation on the merits of the application.

IA No. ... (Raj Kumar)

20. At the request of learned counsel for the applicant, this IA is permitted to be withdrawn and stands dismissed as such.

IA No. ... (Sushil Jain)

21. Having heard learned counsel for the applicant Mr. Parekh, we find no flaw with the order of the Thareja Committee rejecting the petitioner's claim. The applicant's brother who was having earlier receipts in his possession did not produce the same before the Thareja Committee. So far as the applicant is concerned, he had no proof as continuous squatter from 1987 till the date when the Thareja Committee inspected the site. Hence his application was rightly rejected.

IA is disposed of. IA No.... (Rakesh Kumar Gupta)

22. The Thareja Committee has found that the applicant has no proof as squatter from 1987 to 1991. Hence, his claim was rightly rejected on merits. IA is disposed of. IA No.... (Chander Kumar) 23. This application challenging the minimum standard for squatting cannot survive in view of our order dated 4-2-1998 upholding the standard. The IA is dismissed.

IA No. ...(Inder Singh)

24. Learned counsel for the applicant states that she has no instructions in the matter. Hence, the application is dismissed for non-prosecution.

LA No. ... (Abdul Rashid)

25. No one appears to press this application. Hence, the IA is dismissed for default.

LA No. 147 of 1998

26. IA No. 147 of 1998 is granted after hearing the parties. IA No. 123 of 1997 is restored to file and taken on board for orders. The Thareja Committee Report shows that the applicant did not produce the original documents. Not only that, but he remained absent for two years and did not press his claim. In that view of the matter, no relief could have been granted to the applicant. The IA is therefore, dismissed.

IA No. 72 of 1996

27. No one is present to press this application. Hence, this IA is dismissed for default.

Contempt Petition (C) No. 216 of 1998

28. Notice to issue to Respondents 2 to 7 to show cause as to why if the applicant's allegations contained in para 11 of the application as made against them are found true, they should not be suitably dealt with under the Contempt of Courts Act, 1971. Notice is made returnable on 28-4-1998. In addition, on the oral request of learned counsel for the petitioner, Sardar Gurmail Singh, Inspector (Enforcement Tax), NDMC is permitted to be joined as Respondent 9 and notice to issue to him also returnable on 28-4-1998. These respondents to whom notices are ordered to be issued shall be personally present on the returnable date. Dasti service in addition is permitted. It is clarified that the petitioner whose claim is accepted by the Thareja Committee and who is protected by our order dated 4-2-1998 shall be permitted to occupy Teh Bazari site admeasuring 6' x 4' at Malcha Marg Market near the powerhouse where the applicant will be entitled to vend only prepared tea.

Contempt Petition (C) No. 217 of 1998

29. Contempt petition is disposed of. IA No. ... (Ram Khillari) and IA No.... (Ranjana)

30. Having heard learned counsel for the petitioners Mr. Parekh, we find that the Thareja Committee was justified in rejecting the claim of the applicants as the proof for the relevant years was not furnished by the applicants in support of their cases. IAs are disposed of. IA No. ... (Radhey Shyam)

31. The Thareja Committee has found that at least on two occasions when surprise inspection was made, the applicant was not found carrying on business of selling magazines on the spot and his

nephew was in charge. Accordingly, no relief is given to the petitioner by the Thareja Committee. No fault can be found with the Report of the Committee. Hence, the IA is dismissed.