

26-07-2004

Present: Mr.Chander Shekhar with Mr.Shaad Anwar for  
the petitioner.  
Mr.Anil Sapra for the DDA.

**WP(C) No.12143/2004**

1. Learned counsel for the petitioner states that the respondent/DDA has taken possession of the site.
2. Be that as it may, I don't find any infirmity in the impugned order. The best which can be said in favour of the petitioner is that somewhere in 1950, his father came into unauthorized occupation of land comprised in Khasra No.958/29 measuring about 500 Sq. Yards, Lakar Mandi, Qadam Shariff Estate, New Delhi. Further, at best it could be said that petitioner's predecessors-in-interest was allowed to occupy the land as a licensee at a licence fee of Rs.7.50/- per month.
3. Admittedly, petitioner had not led any evidence before the Estate Officer or even before the Appellate Tribunal to establish that petitioner's predecessor-in-interest had been paying the licence fee. In the present petition, petitioner has placed on record some receipts pertaining to the year 1953-1954 which evidence receipt of licence fee by the Ministry of Rehabilitation, Government of India. There is no proof of payment of any licence fee post 1955.

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4. If it was the case of the petitioner that he was occupying the site under a licence, it was for the petitioner to have established payment of licence fee after 1955 as well. It appears that the petitioner/his predecessor-in-interest has quietly continued to occupy government property for 49 years without paying any licence fee.

5. Counsel for the petitioner states that the Gadgil Assurance which resulted in a policy enures for the benefit of the petitioner. Reliance is placed on a decision of this court in WP(C) No.712-D/1964 Iqbal kaur Vs. the Estate Officer.

6. Decision dated 22<sup>nd</sup> August, 1974 in Iqbal Kaur's case would reveal that Iqbal Kaur had established before the court that till as late as 24.12.1962, she had paid the licence fee which was demanded from her. She had led evidence that the site was allotted to her by the Land & Development Office. She had pleaded that Gadgil's Assurance which resulted in a policy conferred a right in her favour.

7. It may be noted that having established that she had paid licence fee upto the year 1963, Iqbal Kaur had challenged the initiation of the proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1958 on the ground that she was not an unauthorized occupant as she had paid the licence fee. She had claimed a right to continue to occupy the

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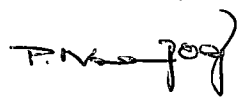
premises in terms of the policy contained in the Gadgil Assurance.

8. Petitioner, as noted above never led evidence of payment of licence fee even till 1954. It is only in the present proceedings that a few receipts have been filed showing payment of licence fee till 1954. Assuming that the petitioner was granted a licence, in my opinion, since the petitioner has not got the licence renewed and has not paid the licence fee, petitioner is not entitled to any indulgence.

9. If the petitioner ~~was~~ to protect a claim under Gadgil Assurance, which assurance was made on the floor of the Parliament somewhere in the year 1951, petitioner ought to have sought regularization under the policy framed as per the assurance. Petitioner could not have continued to occupy a public premises for over 50 years free of cost.

10. I find no merit in the writ petition.

Dismissed.

  
PRADEEP NANDRAJOG, J.

July 26, 2004  
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