

% 09.06.2008

Present: Mr. Anil Sapra, Advocate with Mr. Rajesh Pathak, Advocate and Ms. Nishi Chaudhary, Advocate for petitioners.
Ms. Shobhana Takiar, Advocate for respondent/DDA

+ CM Nos. 8645/2008, 8647/2008, 8649/2008, 8652/2008, 8656/2008, 8658/2008, 8660/2008, 8662/2008, 8664/2008

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Allowed, subject to just exceptions.

WP (C) Nos. 4482/2008, 4483/2008, 4484/2008, 4486/2008, 4488/2008, 4489/2008, 4490/2008, 4491/2008, 4492/2008 and

CM Nos. 8644/2008, 8646/2008, 8648/2008, 8651/2008, 8655/2008, 8657/2008, 8659/2008, 8661/2008, 8663/2008

Mr. Anil Sapra, learned Counsel for Petitioners questions the manner in which the eviction of the Petitioners has been carried out and he contends that though the land in dispute had been acquired in the year 1964, the Respondent has taken no steps for taking over its possession since the last 42 years.

Mr. Anil Sapra has further drawn my attention to the notice issued under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and states that the ground on the basis of which the said show cause notice was issued is extremely vague and without any particulars. In this context, Mr. Anil Sapra places reliance upon the case of **Minoo Framroze Balsara Vs. The Union of India and Others reported in AIR 1992, BOMBAY 375.**

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On a perusal of the said notice, this Court finds that it is clearly stipulated in the eviction notice that the Petitioners are unauthorized occupants/encroachers of government land and, therefore, liable to be evicted under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Further, in the notice the Petitioners had also been given an opportunity to place on record any evidence that they intend to produce in support of their plea that they were not liable to be evicted. Consequently, this Court is of the opinion that not only was the eviction notice specific but also adequate opportunity had been given to the Petitioners to prove their case.

Even today I asked Mr. Anil Sapra as to what was the title of the Petitioners to the land in dispute. Mr. Anil Sapra fairly submitted at bar that the Petitioners do not possess any title or possession over the land in question.


Since, admittedly the land belongs to Respondent/DDA, this Court is of the view that it has right to take over its possession and to develop and manage it. Learned Additional District Judge in the impugned order has recorded that the land in question is required for widening of road. Mr. Anil Sapra disputes the said purpose of acquisition.


In any event, this Court is not going into the validity of the acquisition proceedings. This Court is only concerned with the proceedings under the Public Premises (Eviction of Unauthorised

Occupants) Act, 1971.

In my view any delay on the part of Government in taking over possession of its own land cannot vest any right with the unauthorized occupant of the Government's land.

Consequently, the present writ petitions are dismissed, but with no order as to costs.


Manmohan
(Vacation Judge)



June 09, 2008
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