



Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3545 OF 2016

Ramkali Dayakisan Gupta & Anr ...Petitioners
Versus
 Union of India & Ors ...Respondents

Mr Sanjay Kshirsagar, for the Petitioners.
Mr Sanjeev Singh, with DP Singh & Savita Ganoo, for Respondents
Nos. 1 & 2-UoI.
Mr Rajdeep S Khadapkar, for Respondent No. 3.
Mr SL Babar, AGP, for Respondent No. 4-State.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 5th October 2023

PC:-

1. The conduct of the Union Government in this matter does not leave much to be desired. It leaves everything to be desired. The Petition has been pending admission and final disposal at the admission stage before us for, we are shocked to note, seven years, since 2016. There is no great issue of law involved. The question is only whether the record indicates that the Petitioner's plot is or is not within a proscribed distance. More accurately, the question is from what starting point that distance is to be measured.

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2. For reasons that we cannot easily discern, the Petition remained in the state of pending admission from 2016 till 8th June 2023. Then on that day, by consent, it was directed to be placed for final hearing on 14th July 2023 at 3.00 pm. On 24th August 2023, the matter was listed before this Bench. On that date, we specifically listed the matter today, 5th October 2023 at 2.30 pm. In another manner of speaking, we granted an extraordinary indulgence from 24th August 2023 for a good six weeks until today.

3. The matter is listed today at Sr No. 903 among the matters to be taken at 2.30 pm. When called, and despite this undeniable history, an application for an adjournment is made for yet more time on the ground that the learned Additional Solicitor General is occupied in another Court.

4. We do not expect the learned Additional Solicitor General to appear in every single one of the matters that involves the Union of India. Obviously, it is not unreasonable to expect that there will be perfectly competent advocates from his office who will be able to lighten his load and assist him in discharging the duties of his office. We see no reason why no one else is prepared to go on with this matter.

5. We are equally mindful, and we are constrained to say this, that we are no strangers to repeated assertions from the Union Government itself regarding pendency of cases, mounting arrears, frequent adjournments and impediments allegedly caused by our Courts to what the Government calls “the ease of doing business”.

Conveniently overlooked in all these assertions is the fact that it is the Government that is by far the largest litigant, and it is the Government that most often seeks adjournments, frequently needlessly. This case is an example.

6. The pleadings are complete. The Petition itself was filed on 24th February 2016. There is an Affidavit in Reply. That Affidavit in Reply is dated 20th August 2016, i.e., it was filed well in time. Then there is an additional Affidavit also filed and this additional Affidavit is dated 28th August 2016. Then there is an Affidavit in Rejoinder from page 218 dated 29th January 2020, although it is captioned as an Affidavit in Sur-Rejoinder. Then there is a further Affidavit on behalf of the Respondents filed more recently on 21st October 2022.

7. Indeed, there are two orders of 20th March 2017 and 2nd May 2017 (respectively of AS Oka J, as he then was and Anuja Prabhudessai J and AK Menon J) which indicate that the issue is indeed as narrow as we have said and therefore the Petition deserves to be disposed of finally at the stage of admission. This is all the more reason not to accept any applications for long adjournments.

8. Given this we are entirely unable to appreciate, and indeed we express our strongest displeasure of these applications for repeated adjournments.

9. Having heard the learned Advocate for the Petitioners, Mr Kshirsagar, adequately on the few points that are necessary for our

determination, we are unable to discern a meaningful response either in the Affidavit or in arguments in answer to the Petition.

10. It is at this stage that the application for accommodation for the learned Additional Solicitor General is repeated. It is only out of courtesy to him that we stand the matter over to tomorrow, 6th October 2023. The matter will be listed first on board. There will be no further adjournments under any circumstances.

(Kamal Khata, J)

(G. S. Patel, J)