



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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Case No. CPN /4992/2009-10 / 1580

Name of the complainant : Arunaben B Doshi,
5/25, D.S. Nagar, Narsing Lane,
Malad(W) Mumbai 400064.
V/S.
The Dy. Commissioner of Police,
Zone-XI, Mumbai.

Date : 21.10.2010.

Coram : Justice Kshitij R Vyas (Former Chief Justice), Chairperson

ORDER

The complainant is present with her advocate Nikita K. Padechia. Respondent Shri Suresh V Nimbalkar API from Malad police station is present at the time of hearing. Report is already filed in the case.

The complainant has alleged that the police personal attached with Malad(W) police station and BMC officer along with builder Rajani Ajmera and his manager Mr Awasthi came at the complainant's premises on 23rd January 2010, a public holiday for BMC, threatened the complainant and her family members. It is alleged that the complainant was assaulted by women Constable Miss Shital, with the result she became unconscious and was taken to Bhagwati hospital. It is alleged that at the instance of Manager Mr Awasthi Doctors reported the injuries as minor injuries. As per the case of the complainant the entire exercise was carried out by the respondent to get vacated the premises of the complainant.

ACP zone11 Mumbai has filed the report in the case. Having perused the report it appears that the scuffle taken place between the women constable and the complainant due to which the complainant sustained injuries. As stated in the report women constable Mrs Potdar also sustained injuries on her left knee and was also taken to the hospital for treatment.

It may be stated that the building D.S. Nagar, Narsing Lane where the complainant and others are residing is in dilapidated condition. It appears that number of proceedings with respect to the said property are pending before concerned court wherein many interim orders are passed by the court. In view of this it is clear that without obtaining permission from the court it is not open for the respondent to evict the persons residing in the building forcibly. In spite of the above position on the day of incidence BMC officers, the police personals and the man of builder have gone to the building. According to the complainant they have gone to forcibly evict, her family while according to the respondent they have gone there for the purpose of taking inspection. It appears that one of the persons residing in the premises Shri Jitendra K Mehta also filed complaint being case No. CPN-4996/2009-10 before this Commission. On 30th June 2010 I have disposed of the said case while recording the statement made by learned advocate Shri Rathod of the BMC, to the effect that without obtaining orders from the court the corporation shall not forcibly evict the persons residing in the promises.

As far as the present case is concerned the complainant has not only alleged, forcible eviction but also assault on her by the women constables. It is a matter of fact that the complainant sustained injuries because of the scuffle she had with the lady constable. The complainant has infact narrated the incident to the doctor at the time of taking treatment, which has been recorded as case history, wherein the complainant was assaulted by the lady constable. The respondent has tried to justify their act and stated that the lady constable also sustained minor injuries at the hands of the complainant. This explanation is no explanation accepted: There is no justification for the respondents and more particularly for the police to visit the premises in question without there being any order from the court where the dispute is pending. In the name of maintaining law and order it is not proper to use force by assaulting the person who protests their act. The presence of the man of builder suggest the action was not bonafide.

In view of above observations, since a minor incident has taken place and to prevent the repetition of the incidence of such nature, it is observed that while

providing police assistance to the authorities like BMC the police authority shall take care and show restraint ^{while} ~~which~~ performing their duties especially in the subjudiced dispute, with the above observation the case is disposed of

Sd/-
(Justice Kshitij R. Vyas)

Chairperson.

Mumbai.

