**Case title:** City of London Corp v Samede

**Case Number:** 160

**Country or Region:** UK

**Name & status of court or arbiter:** Appeal Court

**Date of decision:** 22 February 2012

**Relevant law:** ECHR (Articles 10 and 11)

**Decision:** The rights of protesters under the European Convention on Human Rights 1950 art.10 and art.11 were engaged in relation to the maintenance of their camp next to St Paul's Cathedral but there was no chance that they could persuade an appellate court that the judge had been wrong to order their removal.

**Summary:**

***Facts***

The applicants (P) applied for permission to appeal against a decision granting the respondent local authority orders for possession in respect of two areas of land owned by it and occupied by P, and injunctions and declarations.

P and others had set up a camp, consisting of a large number of tents, next to St Paul's Cathedral in the City of London. Many of the occupiers of the camp had designated their organisation the "Occupy Movement". The majority of the area occupied by the camp consisted of highway land owned by the local authority, but also included other land owned by the church. The local authority sought orders for possession of the highway land and injunctions requiring removal of the tents and restraining the erection of tents there or on adjoining land in the future. The judge found that the local authority was entitled to possession of the areas it owned, subject to consideration of P's rights to freedom of expression and of assembly under the European Convention on Human Rights 1950 art.10 and art.11.

He concluded that the factors for granting the relief sought easily outweighed the factors against and gave judgment in favour of the local authority.

P submitted that an order which closed down the camp was an unjustified interference with their Convention rights; alternatively the judge should have made more limited orders

***Decision***

In the circumstances P's rights under art.10 and art.11 were engaged in relation to the maintenance of the camp (para 28).P's argument amounted to saying that art.10 and art.11 effectively mandated the court to hold that the camp should be allowed to continue in its current form for the foreseeable future (para.37). However, determining the limits to the right of lawful assembly and protest on the highway was fact-sensitive and relevant factors included the extent to which the continuation of the protest would breach domestic law, the importance of the precise location to the protesters, the duration of the protest, the degree to which the protesters occupied the land, and the extent of the actual interference the protest caused to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public (para.39). It was appropriate to take into account, as the judge had, the fact that P were expressing views on important issues and strongly believed in the views they were expressing (para.41).

St Paul's churchyard was a particularly attractive location for the camp, in view of its prominence in the City of London, but the judge's orders did not prevent P protesting anywhere other than the churchyard and there were many rights with which the camp interfered adversely. The camp was, and had been for three months, trespassing in St Paul's churchyard, substantially interfering with the public right of way and the rights of those who wished to worship in the cathedral, in breach of planning control, and causing strain on public health facilities, and some damage to local businesses (paras 43-44). While P's art.10 and art.11 rights were engaged, it was very difficult to see how they could ever prevail against the will of the landowner, when they were continuously and exclusively occupying public land, breaching not just the owner's property rights and certain statutory provisions, but significantly interfering with the public and Convention rights of others, and causing other problems connected with health, nuisance, and the like, particularly in circumstances where the occupation had already continued for months, and was likely to continue indefinitely (para.49).

Appeal dismissed.