

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2848/2007

SATYA DEEN MAURYA & ORS.

..... Petitioners

Through Mr. Kuldeep Kumar, Advocate.

versus

COMMISSIONER OF M.C.D. & ANR

..... Respondents

Through Mr. Ajay Aroar & Mr. Kapil Datta, Advocates.

Ms. Iram Majid for counsel for respondents 4-5.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 10.03.2008

1. The petitioners herein are jhuggi-jhopri dwellers who are in occupation of Government land located at Lodhi Road Institutional Area, Lodhi Road, New Delhi. It is the case of the petitioners that they have been in occupation of the said land since 1980 and rely upon Delhi Laws (Special Provisions) Act, 2006. Learned counsel for the petitioners also places reliance upon Clause 4.2.3.1 of Master Plan of Delhi 2021 and submits that the petitioners being jhuggi jhopri dwellers are entitled to alternative allotment of built up accommodation on 25 sq.mts. of land.

2. I have considered the contentions raised by learned counsel for the petitioners but do not find any merit in the same. It is pointed out by the Slum & JJ Department of the MCD in their counter affidavit that a joint survey of the area was conducted by the Central Public Works Department, the land owning agency and the representatives of the Slum & JJ Department in the year 1998 to ascertain the eligible number of squatters. As per the Joint Survey Report, 72 jhuggi-jhopri were found at the site. The land owning agency deposited re-location charges of Rs.19,19,000/- for relocation of the eligible jhuggi-jhopri dwellers. On scrutiny, it was found that 39 dwellers were eligible for relocation on 18 sq.mts plots and 11 jhuggi-jhopri dwellers were found eligible for 12.5 sq.mts. plots. It is further stated by the Slum & JJ Department of the MCD that the area in question is required to provide parking space as due to want of space, cars are parked on the main road leading to traffic jams and congestion in the area.
3. Section 3(1)C of the Delhi Laws (Special Provisions) Act, 2006 and the 2007 Act grant limited protection and do not apply when slums and jhuggi-jhopri clusters are removed by clearing the land required for specific public purpose. In the present case, the land in question is required for providing parking space and to ensure smooth flow of traffic in the area. As per the respondents, clearance of land is required for

specific public project and therefore in view of Section 4(d) of the Act no protection is available to the petitioners. Further the petitioners as per the policy decision are being allotted plots. It may be mentioned here that a Division Bench of this Court in Writ Petition (Civil) No. 4441/1994 titled *Okhla Factory Owners' Association and another versus G.N.C.T.D. and others*, has quashed the rehabilitation policy of the Government. The said decision is now subject matter of an appeal before the Supreme Court. By interim Order dated 4th September, 2003, the Supreme Court has held that the authorities may allot land to slums and jhuggi-jhopri dwellers but such allotment would clearly specify that the allotment would be subject to the result of the said appeals.

4. In the present case, alternative allotment in the form of plots of land measuring 18 sq.mts. and 12.5 sq. mts. is being made to all eligible jhuggi-jhopri dwellers. The matter has been pending with the Government since 1998 and the C.P.W.D., (the land owning agency), has after site verification deposited Rs.19,19,000/- for relocation of the petitioners. I do not think it will be appropriate to prolong removal or delay the relocation process. It is apparent that the petitioners are reluctant to accept relocation and want to reside on the Government land.

5. Reliance placed by learned counsel for the petitioners on Clause 4.2.3.1 of the Master Plan of Delhi 2021 and the contention that they are entitled to built-up accommodation on 25 sq.mts. of plot and not plots of land measuring 18 sq.mts. and 12.5 sq. mts., cannot be accepted. The said Clause refers to problem of relocation of the existing squatters and three fold strategy of relocation being pursued. One of the recommendation made in the aforesaid Clause is for allotment of built-up accommodation on 25 sq.mts. of land. However, the said recommendation is not to be implemented immediately. The said Clause notes that during the period 1981-2001, resettlement of squatters' slums was done on 18 sq.mts. or 12.5 sq.mts. plots which were given on licence basis. It was noticed that there were number of aberrations and due to certain other aspects, this policy should be progressively abandoned and substituted by an alternative approach. Parameters for alternative approach have also been recommended. One of the parameters suggested is allotment of built up structures on 25 sq.mts. of land.
6. It cannot be said that till an alternative approach or policy is formulated, the authorities are powerless and cannot follow the existing policy/schemes of resettlement. The existing scheme has not been abandoned or declared void in the Master Plan of Delhi 2021. The

existing scheme/policy will continue till further decision is taken and policy guidelines in terms of alternative approach are framed. It is apparent that the petitioners are occupying prime land located in the heart of the Capital and therefore they are reluctant to shift to the resettlement areas/location. In view of the stand taken by the respondent and explanation given by them in their counter affidavit, I do not find any merit in the Writ Petition and the same is accordingly dismissed.

7. The respondent-Slum & JJ Department of the MCD will abide by the averments made in their counter affidavit with regard to the relocation of the jhuggi-jhopri clusters at Sai Baba Camp, Behind Sai Baba Temple, Lodhi Road Institutional Area, Lodhi Road.
8. At this stage, learned counsel for the petitioner states that the petitioners are willing to file individual undertakings in this Court specifically stating the date(s) on which they will vacate the said Camp and shift. Liberty is granted to the petitioners to file such undertakings/affidavits along with an application. As and when such affidavits along with an application are filed, the same will be considered on merits.

SANJIV KHANNA, J.

MARCH 10, 2008

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