

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

+ W.P.(C) 5220-22/2006

SATYAM COMPLEX JHUGGI JHOPRI WELFARE SAMITY, REGD. &
ORS. Petitioner

Through Mr.(presence not given)

versus

U.O.I & ORS

..... Respondent

Through Mr.O.P.Saxena, Adv. for Slum and JJ Wing,
MCD.

Ms.Manju Singhal, Adv. for respondent no.4

Mr.Rajan Tyagi for Mr.Rajiv Bansal for DDA.

Ms.Monika Garg, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **01.04.2008**

1. The petitioner M/s Satyam Complex Jhuggi Jhopri Welfare Samiti has filed the present writ petition claiming that their members are entitled to alternative plots in accordance with the scheme formulated and approved by the respondents. Members of the petitioners' society had occupied Government land and were removed on 01.2.2006, when the JJ Cluster was demolished. It appears that the said action taken by MCD pursuant to the order passed by this Court on 26.10.2005 for removal of the said cluster.
2. Learned counsel for the petitioner has drawn my attention to the documents annexed with the writ petition which includes election cards and identity cards issued by Delhi Administration. It is stated that the JJ cluster

was in existence from 1984 and identity cards were issued on 21.3.1990.

3. It is difficult for this Court to verify the persons who were in actual occupation of the JJ Cluster as on 01.2.2006 and whether the persons in whose favour identity cards were issued on 20.3.1990, had continued to remain in possession of Jhuggis till demolition action on 1st February, 2006.

4. The respondent/MCD in their counter affidavit has also taken a stand that most of the encroachers had established commercial ventures and were accordingly not entitled to any allotment. They have also enclosed copy of the order dated 26.10.2005 passed in the contempt case No.(C) No.1255/2005, in which relocation policy of the Slum and JJ Wing has been quoted and it has been pointed that the said policy decision does not entitle commercial vendors to be re-located. Thereafter, direction was given that jhuggis which were not entitled to re-location should be demolished forthwith. This order was passed on 26.10.2005. It is pursuant to this Court order that demolition of JJ cluster was done.

5. I may note here that the Division Bench of this Court had examined the question of right of re-location and the policy framed by Slum and JJ Wing of MCD in Wazirpur Bartan Nirmata Sangh Vs. Union of India & Ors. 103 (2003) DLT 654 (DB). The policy framed was partly struck down and several directions were given. UOI has filed an appeal against the said decision before the Supreme Court. Partial stay has been granted by the Supreme

Court permitting the Government to make allotment in terms of their policy subject to outcome of the said appeal. In the present case, stand taken by the respondents is that no allotment is required to be made to persons who are dislocated pursuant to demolition action undertaken on 01.2.2006. The respondents have refused to make alternative allotments.

6. In these circumstances, I do not think the petitioners have been able to establish any legal right for allotment of alternative land/plot. This Court therefore, cannot issue any such direction. However, it is clarified that in terms of the interim order passed by the Supreme Court, it is always open to the respondents to consider claim of the petitioner and if found eligible as per the policy and scheme framed, allotment of alternative plot/flat can be made. The policy/scheme should be implemented uniformly and without any discrimination.

The writ petition stands disposed of.

SANJIV KHANNA,J

APRIL 01, 2008
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