

IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: February 16, 2010

Decision on: March 8th, 2010

W.P.(C) No. 5645 of 2001

K.C. JAIN (Deceased) through LR's Petitioners
Through: Mr. Ravindra Dayal and Mr. S.Pani,
Advocates.

versus

UNION OF INDIA & ORS. Respondents
Through: Ms. Saroj Bidawat, Advocate for
MCD.
Mr. Neeraj Chaudhari with Mr. Khalid Arshad,
Advocates for UOI.

CORAM: JUSTICE S. MURALIDHAR

- | | |
|---|-----|
| 1. Whether reporters of local paper may be allowed to see the judgment? | No |
| 2. To be referred to the reporter or not? | Yes |
| 3. Whether the judgment should be referred in the digest? | Yes |

JUDGMENT

1. The first prayer in this petition is for a direction to the Respondents to mutate the allotted Plot No.1, Site No.7, New Rajender Nagar, New Delhi in a time bound schedule and issue the lease in favour of Shri Kailash Chandra Jain and Shri Suresh Chandra Jain “without demanding affidavits, indemnity bonds/probate of will and without making further demand of damages from the Petitioners”. The other prayer is for a direction to the Respondent Municipal Corporation of Delhi (‘MCD’) to sanction the building plan of the Petitioners within two weeks “without claiming any augmentation development charges from the Petitioners.”

2. The original Petitioners were late Shri K.C.Jain and Shri S.C.Jain the two sons of deceased Shri Lala Sham Chand Jain who lived in Lahore prior to the partition that took place in 1947. It is stated that late Lala Sham Chand Jain lived with his friends and relatives till June 30, 1948. The members of the joint family were registered as refugees under registration Certificate No. P 455 (I-IX) dated 18th October 1947. A large number of refugees including the Petitioners' father commenced constructing houses in Jhandewalan and Aram Bagh Place from 1st July 1948 onwards. It is stated that on 7th May 1949 the Land & Development Office ('L&DO') offered a temporary lease of the site in question at Aram Bagh for a period of three years at the rate of Rs.77.10 per month. A copy of the said letter dated 7th May 1949 has been annexed with the writ petition. It describes the site "at the crossing of original road and mutiny memorial road, which has been occupied by Shri Sham Chand Jain without permission." According to the Petitioners on 30th August 1950 a separate ration card was issued showing the names of the individual family members. The address given in the ration card was 65B Aram Bagh Place.

3. On the floor of the Parliament the then Minister of Works Production Shri M.V.Gadgil gave certain assurances during the debate on the Delhi Premises (Requisition and Eviction) Amendment Bill, 1950 in line with the recommendations contained with the report of the Select Committee on Government assurance. The said assurances (known as 'Gadgil Assurance') were to the effect that the value of the land on which a refugee was squatting was to be computed on a no profit and no loss basis and the displaced person was to be given an option of purchasing the site occupied

by him against payment in easy instalments of the value of the land assessed and on condition of paying the ground rent. Where the displaced person was unable to purchase the site he was not to be evicted unless alternative accommodation was provided on the developed plan and a rehabilitation grant was made.

4. The Master Plan for Delhi came into effect from September 1962 and the Petitioners' houses which were constructed in the Aram Bagh Place area (also known as Patel Nagar) were shown as residential. By a letter dated 26th March 1963, the L&DO informed the Petitioners that they were to contact the Deputy Commissioner (Slum), Delhi Municipal Corporation for allotment of an alternative accommodation in lieu of their plots in the Aram Bagh Place, New Delhi. The Petitioners state that 28 of the 60 people whose houses were demolished by the Government were given residential accommodation since they could not afford to buy the plots on which they had built their houses. The remaining 32 were allotted residential-cum-commercial plots in the Jhandewalan locality itself on no profit no loss basis. They were given ex gratia payment for the structures which were demolished. The Petitioners state that when they claimed a similar relief of an alternative accommodation, the Respondents refused. This was communicated to them by a letter dated 22nd April 1963 by the then Under Secretary to the Government of India.

5. On 12th December 1983, the L&DO allotted a 200 sq. Yards plot in New Rajendra Nagar in the name of the Petitioners' father, who had expired way back on 28th April 1966. The said letter clearly stated that the lease

hold rights of the plot in New Rajendra Nagar were being allotted to the Petitioners' father "as an eligible squatter covered under the Gadgil Assurance in lieu of the present site occupied unauthorisedly." The letter was addressed to the Petitioners' father at "65B Aram Bagh Place, New Delhi". The allotment was made subject to several conditions. One was that the premium to be paid was at the rate of Rs.30/- per sq. yard towards the cost of the land plus annual ground rent @ Rs.1/- per hundred sq. yard. per annum which was the same as being charged in Rehabilitation Colonies in Delhi and New Delhi. The site occupied by the Petitioners was to be vacated by them within two years of the date of the said letter. In addition the Petitioners were to pay damages at the concessional rates in terms of para 3 of the Circular dated 25th May 1970 of the Ministry of Works and Housing for the period of two years. Thereafter they would be liable to pay damages at higher rates as per rates in force from time to time. Construction of the allotted land was to be completed in conformity with the architectural surroundings of the area and subject to Municipal Bye-Laws in force within two years from the date of the letter. The land was to be used only for residential purposes. The Petitioner was asked to communicate whether the terms were acceptable to the Petitioners and, if so, to communicate the same together with a bank draft for a sum of Rs.6032/- comprising of Rs.6,000/- as premium, Rs. 2/- as annual ground rent for one year in advance and Rs.30/- as cost of preparation of lease deed.

6. On 10th January 1984 the Petitioners sent two cheques for Rs.3016/- each. For the first time the Petitioners informed the L&DO that late Shri

Sham Chand Jain had expired. It was requested that the allotments should now be made of two plots – one in the name of their mother Mrs. Anaro Jain for “65A Aram Bagh Place” and another in the names of Shri K.C.Jain and Shri S.C.Jain for “65B Aram Bagh Place”. The Petitioners enclosed a registered Will stated to have been executed by late Shri Sham Chand Jain.

7. On 4th August 1994 the L&DO wrote to Shri K.C.Jain and Shri S.C.Jain at their address at 65B Aram Bagh Place returning the two cheques and declining the request for allotment of alternative land “till the names of legal heirs are recorded in the name of the deceased person Shri Sham Chand Jain.” It appears that thereafter the Petitioners did not do anything. By a letter dated 21st July 1987 the L&DO informed the Petitioners that they were required to pay damages in the sum of Rs.1, 98, 222.26 for the unauthorised occupation of the land at 65B Aram Bagh Place. It was stated in the said letter addressed to Shri Sham Chand Jain at 65B Aram Bagh Place that he had unauthorisedly and illegally occupied the government land area of which is mentioned by the Schedule 1 below. Schedule 1 reads as under:

“SCHEDULE I

Public premises measuring 244 sq. yds. or 204.01 Mts.
Situating at Aram Bagh Place, New Delhi Bounded as follows:-

1. On the North: Kacha Road and Sh. Pyare Lal
Residence
2. On the South: Service Road
3. On the East: Unauthorised House on Govt. land
by K.C. Jain and S.C.Jain

4. On the West: Lawn and S.Road.”

8. Aggrieved by the above demand notice, the Petitioners filed Suit No. 1783 of 1987 in this Court seeking a declaration and injunction restraining the Respondents from recovering the amount of damages. However, it appears that the said suit was subsequently dismissed.

9. A reference is made by the Petitioners to a letter dated 4th January 1993 issued by the L&DO withdrawing the earlier demand letter and now claiming damages at the concessional rate amounting to Rs.30,848.40 calculated from 1st January 1952 to 30th September 1992. According to the Petitioners they have made payment by way of cheques dated 3rd March 1992, 25th January 1997 and 1st December 2000 totaling Rs.54,886.

10. During the pendency of the suit, in a public interest litigation being Writ Petition No. 4677 of 1985 titled *M.C. Mehta v. Union of India* in the Supreme Court, application IA Nos. 18, 22 and 32 were filed for removal of encroachments on the ridge area. Pursuant to the orders passed by the Supreme Court, notices were issued to 11 persons including the Petitioners as they were residing in Aram Bagh, which formed part of the ridge. An order was passed by the Supreme Court on 4th September 1996 disposing the IA filed on behalf of 11 persons including the Petitioners. The said order reads as under:

“We have heard learned counsel for the parties regarding shifting of 11 occupants who are residing in ridge area on the basis of “Gadgil Assurance”. DDA has already handed over the possession of the plots to

L&DO. The 11 plots are further being allotted to 11 persons. The objection was raised by the residents of the area that these 11 plots have been carved out from the green area and not from the residential area. Mr. KK Bandyopadhyay, Additional Commissioner (Plg.), DDA has filed affidavit whereunder it is stated that as per the MPD-2001 the area under plot/site No.7 falls under residential zone. The 11 plots have been carved out from the said plot/site No.7 which falls under the residential zone. It is further stated in the affidavit that as per draft of zonal plan of zone B approved by DDA as per resolution no. 174/92 dated December 17, 1995 for inviting objections under section 11 of the DD Act 1957 the land use is shown as residential, it is further stated that after processing objection/suggestion, the area has been retrained as residential.

In view of the categorical affidavit of the DDA, we reject the contention of the residents of the area. We directed the L&DO to hand over the possession of the 11 plots to the 11 allottees within two weeks. These allottees who refuse to take the plots, shall be immediately dispossessed from the ridge area. The allottees after taking possession of the land shall move the MCD within one month for sanction of the plan. The MCD within six weeks thereafter shall sanction the plans. We give time to the 11 allottees to move from the ridge area before May 31, 1976. These occupants shall not be permitted to live in the ridge area beyond May 31, 1997 irrespective of the fact whether they are in a position to build their houses or the allotted plots or not. We further direct that none of the trees which are in existence on these 11 plots shall be cut or removed without the sanction of the authority under law while

constructing the residential houses by the 11 persons.
We further direct the Ridge Management Board to take over the possession of the Ridge area from the eleven persons on June 1, 1997 and thereafter do the necessary plantation and fencing.

I.A. in respect of 11 persons is disposed off.”

11. On 16th September 1996, the L&DO addressed a letter to the legal heirs and executors of late Shri Sham Chand Jain informing that a draw was held on 29th June 1996 pursuant to which Plot No.1 measuring 200 sq. yards in New Rajendra Nagar fell to their lot. The Petitioners were asked to take possession of the plot by 18th September 1996 at the latest. According to the Petitioners since the requirement of the legal heirs of late Shri Sham Chand Jain having to submit affidavits was not part of the conditions imposed by the Supreme Court on 4th September 1996, there could be no such demand made by the L&DO. Moreover, the letter dated 16th September 1996 was unconditional. Consequently, the earlier terms and conditions mentioned in the letter dated 4th August 1984 should be deemed to have been waived.

12. It appears that pursuant to the order of the Supreme Court, possession of the alternative plot in Rajendra Nagar was handed over to Shri K.C.Jain one of the legatees in the Will left by Shri Sham Chand Jain.

13. A copy of the said Will has been enclosed with the present petition. As regards property at Aram Bagh, it is stated as follows in the Will:

“Four rooms built by me (65A&B) in Arambagh Place N.Delhi in sep. 1948. The house tax regarding these amounting to Rs.86/6. Is paid by my two sons-half & half since may '52. One of the rooms is occupied by Kailash Chand another by Suresh Chand and the remaining two with a godown formed by enclosing the western Back verandah by myself, wife & two daughters, Nirmal & Urmil. The two sons will continue paying the house tax. The Land belongs to the NDMC (Land & Development) In case the Land is permitted to be purchased from the M.C. the cost will be paid by the brothers equally. They will be considered masters of the two halves-the eastern half for Kailash Chand and Western half for Suresh Chand. Living arrangements may continue as now or as agreed among them & my wife. They will build on their respective portions as they like under municipal by-laws of course.”

14. It is stated by the Petitioners that when the L&DO was asked to execute the lease in favour of Shri K.C.Jain they refused to do so and insisted that affidavits from each of the legal heirs should be produced. The affidavits were produced. In the reply filed to the present petition, it is pointed out by the Respondents that late Lala Sham Chand Jain had left behind the following legal heirs:

- “a. Smt. Anaro Jain, W/o late Sh. Sham Chand Jain (died on 9.12.88)
- b. Smt. Vidya Jain, D/o late Sh. Sham Chand Jain (stated to have died in 1991)
- c. Sh. Kailash Chand Jain, S/o late Sh. Sham Chand Jain
- d. Sh. Suresh Chand Jain, S/o late Sh. Sham Chand Jain
- e. Ms. Kiran Jain, d/o late Sh. Sham Chand Jain

- f. Ms. Vimla Jain, d/o late Sh. Sham Chand Jain
- g. Ms. Nirmal S. Gupta, d/o late Sh. Sham Chand Jain
- h. Ms. Urmil Jain, d/o late Sh. Sham Chand Jain
- i. Ms. Pushpa Jain, d/o late Sh. Sham Chand Jain”

15. The said counter affidavit states that one of the legal heirs Ms. Urmil Jain denied signing the affidavit which was submitted by the Petitioners. In the meanwhile Smt. Vidya Jain, one of the daughters of late Shri Sham Chand Jain died in 1991. Consequently, the Petitioners were asked to produce the affidavits from her legal heirs as well. It was stated that mutation could not be carried out till these affidavits are submitted.

16. On 27th February 1997 and 8th October 1997 the L&DO called upon the Petitioners to make payment of damages towards unauthorised occupation of the plots in the sum of Rs.1,98,222. It appears that these damages were not paid by the Petitioners. In the letter dated 8th October 1997 the L&DO demanded augmentation/development charges at Rs.797.79 per sq. yard which worked out to Rs.1,59,000. Claiming to have already deposited the entire amount of damages, the Petitioners resisted this demand. This was followed by another letter dated 21st May 2001 of the L&DO demanding Rs.11,17,139/-from the Petitioners being damages for unauthorised occupation till 30th October 1999. It is in the above circumstances that the present petition was filed.

17. It must be mentioned that during the pendency of the present petition, Shri K.C.Jain as well as Shri S.C. Jain, the sons of late Shri Sham Chand Jain died and their LR's have been brought on record.

18. On 4th November 2003 this Court directed that the Respondents would process the case of the Petitioners insofar as the mutation is concerned subject to the issuance of the development charges.

19. A supplementary affidavit dated 4th December 2004 was filed by the Respondents placing on record the following facts:

“The present short affidavit is being filed to place on record the fact that the petitioner had in fact vacated and shifted from property No. 65, A-B Aram Bagh place New Delhi 55, even prior to order dated 4/9/96 passed by the Hon’ble Supreme Court (Reproduce at page 16, 17 of the writ petition). Thereafter, the electricity and water supply authorities had been called upon to disconnect their respective supply connections. In fact, the petitioners had themselves demolished two houses in the year 1997 except only for one room occupied by a domestic employee who set up a false claim against the petitioner of being their tenant.”

20. Further it was pointed out that as far as Petitioner No.2 was concerned, he had been a resident of Kota, Rajasthan since the year 1962. A copy of the passport issued on 7th April 1984 his address was shown as 65B Aram Bagh Place was enclosed. Also enclosed were the relevant pages of the passport of Shri K.C. Jain issued on 28th November 1996 showing his address as N-60, Greater Kailash, Part-I. It is accordingly submitted that since the Petitioner No.1 had already shifted from Plot No. 65 A-B Aram Bagh Place there was no impediment for the Respondents to take possession of the said property on or before the date as directed by the Supreme Court. The order dated 23rd September 1999 passed by the Supreme Court in an application filed by some of the occupants for further

time to continue to ridge area, was enclosed. The following observations of the Supreme Court in the said order are significant:

“Notwithstanding aforesaid order we do not see any justification for granting any further extension of time to those 11 ridge occupants. The learned counsel, however, prays that some time may be given within which the occupants will vacate the premises occupied by them. We grant a month’s time from today to vacate the premises in question. We are constrained to observe that even though the order of this Court was passed as early as in the year 1996 and more than three years have elapsed. Yet the occupants have not vacated the premises in question. The Ridge Management Board is directed to furnish a report in this regard within one month from today. These applications stand dismissed accordingly.

Report be placed before the court after one month.”

21. An order dated 31st October 2005 issued by the L&DO stating that in view of the probate granted in respect of the Will of late Shri Sham Chand Jain in Probate Case No. 47 of 2004, the property at Plot No.1 Site No.7, New Rajendra Nagar stands substituted in the record of the L&DO in the names of Shri K.C.Jain and Shri S.C.Jain both sons of late Shri Sham Chand Jain. The Petitioners were asked to pay a sum of Rs.11,17,139 plus 18% simple interest with effect from 29th May 2001 up to the date of payment. By a subsequent letter of the same date, the amount demanded was Rs.20,07,422/- by demanding 18% interest. On 11th November 2005 the Petitioners deposited the said sum under protest.

22. Subsequently on 12th November 2006 the Petitioners also signed the surrender deed of 65A Aram Bagh Place. A copy of the lease deed dated 12th January 2006 has been enclosed. According to the Petitioners the surrender certificate indicates that the plot which has been surrendered is at 65A Aram Bagh Place and, therefore, this fact has been accepted by the Respondents.

23. An application being CM No. 6363-62 of 2007 was filed by the Petitioners in the present petition to bring on record the subsequent developments. After referring to the orders dated 3rd April 1996 and 4th September 1996 of the Supreme Court, the Petitioners in the said application stated as under:

“11. It is submitted that the Petitioners had moved from their Plots much before the due date as per the orders of the Hon’ble Supreme Court and had in fact carried out demolition of the constructed area/building by Feb 28, 1997 by incurring heavy expenses. The Petitioner craves leave to refer and rely upon the affidavit which is filed and is on court record. It is stated that till date no reply and or counter affidavit has been filed by the Respondents with regard to the said affidavit and hence its contents are deemed to be admitted. It is submitted that the contents of the said affidavit may be read as part and parcel of the present application and its contents are not being repeated for the sake of brevity.

A copy of the affidavit dated 7.12.2004 is annexed herewith and marked as Annexure A8.

12. It is pertinent to note that the Respondents

miserably and grossly failed to take the possession of the plots of the Petitioners even after specific direction by the Hon'ble Supreme Court to take possession of the land on 1 June 1997. It is submitted that the Respondents cannot be permitted to take benefit of their own wrong. It is submitted that the Respondents have not come to this Hon'ble Court with clean hands and they are not entitled to any relief whatsoever.

13. It is submitted that the Petitioners had paid the entire damages in March, 1997 itself based on the concessional rate advised vide ENF 15-7/1194/68/2 dated 4.1.1993 also gave the Respondents a summary of payments due and paid vide their letter dated October 21.2.2004 showing credit balance of Rs.2542/- in their favour.”

24. In the application it was consequently prayed as under:

“(a) The amount collected by the Respondents amounting to Rs.20,07,422/- should be refunded with pendente lite and future interest @ 18% within 30 days of this order.

(b) The Petitioner should be allotted alternate plots in lieu of 65B Aram Bagh Place, New Delhi, which the Respondents had taken possession against the provisions of law.

(c) Letter dated 31.10.2005 be declared illegal & void and should be quashed by this Hon'ble Court and the payment made to the Respondents pursuant to the letter dated 11.11.2005 should be refunded.”

25. In response to this Application, the Respondents have filed a reply justifying the demand for the damages. It is pointed out in para 12 as under:

“12. It is submitted that the possession of the alternative site in New Rajinder Nagar was handed over on 18.09.1996. The handing over letter regarding Aram Bagh was issued on 1.10.97 and it was found that the premises were locked a copy of which is Annexure R-XI. A reminder was issued on 10.12.97 and it was found that the premises were locked. Meanwhile other occupants had instituted a litigation before the Hon’ble Supreme Court, for extension of time for handing over the possession of their unauthorised occupation. The Hon’ble Supreme Court vide its order dated 24.9.99 has stated that no further extension will be granted and the possession should be taken within one month. Hence, the possession of the plot was taken on 30.10.99. Hence he is liable to pay damages till vacation of the plot as per allotment letter dated 12.12.83.”

26. Annexed to this affidavit is a copy of a corrigendum dated 26th January 2006 issued by the L&DO which reads as under:

“CORRIGENDUM

SUB: Rectification of Deed of Surrender/Transfer Plot No. 1 site No. 7, New Rajinder Nagar, New Delhi.

This is in continuation of this office letter No. L&DO/III/8/12/(40)//22 dated 12.01.2006. In the Deed of Surrender/Transfer the area in para 5 was mentioned as measuring 244 sq. yds situated in 65 A & B Aram Bagh, New Delhi. This should be read as 492 sq. yds.

The other terms and conditions remain the same as per

execution of Deed of Surrender/Transfer.”

27. The submissions of Mr. Ravindra Dayal, learned counsel appearing for the Petitioners have been heard. One of the principal points urged by Mr. Dayal is that the Petitioners had two plots namely 65A and 65B Aram Bagh Place and, therefore, two alternative plots ought to be allotted to them by the Respondents. According to him, the deed of surrender showed that it was in respect of 65A Aram Bagh and, therefore, the Respondents cannot deny the entitlement of the Petitioners for a separate alternative plot in lieu of the plot at 65A Aram Bagh. Moreover, the Schedule to the demand letter dated 21st July 1987 (referred to hereinbefore) showed that there were two plots.

28. As regards the additional affidavit filed by the Respondents on 4th December 2004 in which it is stated that the Petitioner had already vacated the property, Mr. Dayal disputed its correctness. According to him there was no notice issued prior to the demand raised against the Petitioners. Therefore it was not in accordance with the due process of law.

29. By way of clarification the Respondents have filed an affidavit dated 18th November 2009 of the L&DO. This was in response to an order dated 8th October 2009 passed by this Court requiring the L&DO to clarify why the Petitioners were not being allotted an alternative plot “in lieu of 65B Aram Bagh Place, New Delhi.” The clarification is to the following terms:

“That this case was decided as per Gadgil Assurance.
As per Govt.’s decision on Gadgil Assurance scheme,

the squatters were allotted alternative plots of 200 sq. yds. each irrespective of the area of land unauthorisedly occupied by them. The entire area under unauthorized occupation of Late Sh. Sham Chand Jain father of Shri K.C.Jain was 492 sq. yds. which had to be vacated after alternate allotment already made to Sh. K.C.Jain. There is no policy for any additional allotment except that already made. Regarding demarcation as 65 A & 65 B, it is clarified that it was made by Late Shri Sham Chand Jain himself. No such two plots exists in L&DO's records and that there was one single person under unauthorized occupant of the entire area. At the time of execution of lease deed & Deed of Surrender/Transfer the inadvertent mention of 244 sq. yds. has been rectified vide letter dated 31.10.2006. (Annexure-R-1). It is further submitted that the land was allotted to Shri K.C.Jain as legal heir of Shri Sham Chand Jain to get the land under u/a, vacated as required under the Surrender Deed & allotment terms & conditions (R-2). This fact is also evident from the 'Will' of Late Shri Sham Chand Jain furnished by the petitioners as Page-13 in their petition."

30. Having considered the submissions of learned counsel for the parties, this Court is of the view that it is too late in the day for the Petitioners to contend that there are two distinct plots i.e. 65A and 65B Aram Bagh Place and that in lieu of each of those plots, they are entitled to two alternative plots. A careful perusal of the entire writ petition shows that there is no such case made out by the Petitioners during the life time of late Shri Sham Chand Jain. It appears that for the first time in response to the letter dated 12th December 1983 allotting a 200 sq. yards plot that the Petitioners

enclosed two cheques stating that they are entitled to one plot each for 65A and 65B Aram Bagh Place. Those cheques were however returned. It appears that the Petitioners really never followed up the matter till they were served with the demand letter asking them to pay damages in the sum of Rs. 1,98,221.26. As rightly pointed out, the suit filed by the Petitioners challenging the said demand stood dismissed by this Court. The Petitioners did not attempt to have taken any steps thereafter as far as that demand is concerned. In the circumstances, this Court fails to appreciate how on the basis of certain documents like the surrender certificate, the Petitioners can claim that they are entitled to two plots.

31. Importantly the corrigendum dated 31st October 2006 explains that the area of unauthorised occupation was 492 sq. yards. It is further clarified that the demarcation of the said plot as 65A and 65B was made by late Shri Sham Chand Jain itself. No such two plots exist in the L&DO's records. The reference made in the Will to the two plots again does not really help the case of the Petitioners. It only shows that late Shri Sham Chand Jain constructed two buildings on the plot. The mention of plot 65A admeasuring 244 sq. yards in the surrender/transfer deed dated 21st February 2006 was obviously inadvertent and that led to the corrigendum.

32. In view of the above facts, it is not possible to accept the submission of learned counsel for the Petitioners that they are entitled to two plots.

33. As regards the amount of damages claimed, there can be no manner of doubt that the entire case stood covered by the orders passed by the

Supreme Court on 4th September 1996 and 9th September 1996. Those orders make it abundantly clear that persons who had been allotted plots under the Gadgil Assurance Scheme were clearly overstaying and were required to be evicted forthwith. The order of the Supreme Court on 23rd September 1999 notes that some of them were yet to vacate the plots. The Petitioners have not been able to counter the submission made in the affidavit of the L&DO that the possession of the plot at the Aram Bagh Place was taken over only on 13th October 1999. It is therefore not possible to accept the submission that Petitioners are not liable to pay damages till that date at the rates calculated by the L&DO. This Court does not find any illegality vitiating the demand of the sum of Rs.20,07,422/- made by the L&DO, which has since been paid by the Petitioners.

34. Consequently, this Court is unable to grant any of the prayers made in the petition.

35. The petition and the pending applications are accordingly dismissed.

S. MURALIDHAR, J

MARCH 8th, 2010
dn