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

+ LPA 359/2010

PUNNURAM

..... Appellant
Through: Mr. Vikramjit Banerjee,
Advocate

versus

CHIEF SETTLEMENT
COMMISSIONER & ORS.

..... Respondents
Through: Mr. Rajinder Nischal, Advocate
for R-1 to 3.
Mr. Anil Nauriya with
Ms. Sunita Hazarika, Advocates
for R-4.

AND

+ LPA 365/2010

KAMLA DEVI (SINCE DECD.)
THR. LRS.

..... Appellant
Through: Mr. Vikramjit Banerjee,
Advocate

versus

CHIEF SETTLEMENT
COMMISSIONER & ORS.

..... Respondents
Through: Mr. Rajinder Nischal, Advocate
for R-1 & 2.
Mr. Anil Nauriya with
Ms. Sunita Hazarika, Advocates
for R-3.

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Date of Decision: 22nd July, 2010

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MANMOHAN

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

J U D G M E N T

MANMOHAN, J.

CM 9413-9414/2010 in LPA 359/2010 & CM 9675-9676/2010 in LPA 365/2010

Allowed, subject to all just exceptions.

Accordingly, applications stand disposed of.

CM 9677/2010 in LPA 365/2010

This is an application for condonation of delay of 11 days in re-filing the appeal.

For the reasons stated in the application, delay of 11 days in re-filing the appeal is condoned.

Accordingly, application stands disposed of.

LPA 359/2010 with CM 9412/2010 and LPA 365/2010 with CM 9674/2010

1. These two Letters Patent Appeals, being LPA Nos. 359/2010 and 365/2010, have been filed challenging the common judgment and order dated 25th March, 2010 passed by the learned Single Judge whereby the writ petitions filed by Appellants herein have been dismissed with costs of Rs. 10,000/- each to the Union of India and Guru Ravi Dass Mandir Prabhandhak Committee (in short “GRMPC”). The learned Single Judge also held the two writ petitions to be an abuse of process of law.

2. Briefly stated the relevant facts of the present appeals are that the Appellants filed writ petitions praying for a direction to the Chief

Settlement Commissioner and Union of India to allot to the Appellants an additional strip of land measuring 100 sq. yrd. adjoining Northern part of petitioners' Quarter No. 96, Rampuri, Kalkaji, New Delhi (hereinafter referred to as "disputed land"). It was further prayed that the Settlement Commissioner and the Union of India as well as "GRMPC" should be restrained from dispossessing the Appellants from the disputed land.

3. It is pertinent to mention that the Appellants had initially filed a suit for mandatory injunction being Suit No. 724/1984 before the Senior Sub-Judge. On 16th January, 1987 the Senior Sub-Judge dismissed the application for interim injunction holding that the Appellants were in unauthorised occupation of the disputed land. Even an appeal filed by the Appellants being MCA No. 24/1987 against the aforesaid order was dismissed by the Additional Senior Sub-Judge.

4. However, before final judgment could be delivered in the suit, Appellants withdrew said suit and filed a writ petition bearing W.P.(C) 1557/1988 with an identical prayer. Earlier, Division Bench in LPA proceedings arising out of the said writ petition directed the Settlement Commissioner to proceed ahead with the eviction proceedings under Displaced Persons (Compensation & Rehabilitation) Act, 1954 (in short "DPCR Act) and also directed that Appellants should not be dispossessed till further orders are passed by the learned Single Judge.

5. In proceedings under DPCR Act, the Settlement Commissioner held the Appellants to be unauthorised occupants of the disputed land.

The Settlement Commissioner also held the disputed land to be part of plot No. J-2, Rampuri already allotted to the GRMPC.

6. Even the appeal filed by the Appellants under Section 22 of DPCR Act was dismissed. Thereafter even a revision petition filed by the Appellants was also dismissed.

7. It was against the aforesaid orders that the present writ petitions were filed before the learned Single Judge which were also dismissed vide the impugned order.

8. Mr. Vikramjit Banerjee, learned counsel for Appellants challenged the veracity of the lay out plan furnished by the respondents which showed the disputed land to be part of plot J-2. In this connection, learned counsel for Appellants relied upon the reply affidavit filed by respondent nos. 1 to 3 in Civil Writ Petition No. 1557/1988, which reads as under :-

“7.....It is stated that the marking of all the plots in ‘J’ Block was done much earlier before putting these plots for auction in the year 1970. It is specifically denied that there was no ‘J’ Block in the said area.”

9. Mr. Banerjee also relied upon the guidelines dated 23rd February, 1970 and 14th December, 1973 issued by the Government of India whereby an additional strip of land adjoining the quarter was also liable to be allotted to the occupier of the quarter.

10. Learned counsel for respondents disputed the aforesaid submissions of learned counsel for the Appellants. According to them, the Appellants are unauthorised occupants of disputed land as it forms

part of plot J-2, which plot was allotted to GRDMPC way back in 1971. They referred to and relied upon the findings in the proceedings mentioned hereinabove.

11. Learned counsel for the respondents also drew our attention to the prima facie findings recorded by the Senior Sub-Judge in Suit No. 724/1984 as well as to the findings recorded by the Additional Senior-Sub Judge, Delhi in the appeal filed by the Appellants being MCA No. 24/1987. By virtue of the said two orders, the Appellants' application for interim relief in the suit was rejected.

12. Keeping in view the aforesaid, we are of the view that the Appellants have no right, title or interest in the disputed land. The authorities below have given concurrent finding of fact that the disputed land is not adjacent to the Appellants' Quarter No. 96 but is part of the Plot J-2. The reply affidavit relied upon by the Appellants does not prove that the Appellants had any right, title or interest in the disputed land. The said reply affidavit does not indicate leave alone confirm that the disputed land is located adjacent to the quarter owned by the Appellants. In any event, we are of the opinion that the findings arrived at by the statutory authorities under the DPCR Act are neither perverse nor mala fide or contrary to record. In fact, the learned Single Judge after referring to the proceedings in the Courts and authorities below has observed as under :-

“16. It is difficult for this Court to appreciate how in the light of above categorical findings of fact, the petitioners can still urge that they are in lawful possession of the additional

strip of land. The findings on disputed questions of fact having been returned prima facie by the civil courts, and thereafter upon a detailed examination of the records by the authorities under the DPCR Act against the petitioner. They cannot possibly be re-examined in the present proceedings under Article 226 of the Constitution. The concurrent findings of facts of the statutory authorities under the DPCR Act are not shown by the petitioners to be either perverse, malafide or contrary to the record. There are absolutely no grounds made out for interference with the said well-reasoned orders.

17. It is submitted that the petitioners have constructed two shops on the additional piece of land and also have a garden behind the shops. The petitioners rely upon a report of the Local Commissioner in support of this contention. This cannot advance the case of the petitioners at all in view of the categorical findings that the said piece of land is neither an 'additional' strip nor a corner plot. The petitioners have not been able to show how they have any right to the said additional piece of land."

13. Accordingly, present appeals and applications being, devoid of merit, are dismissed but with no order as to costs.

MANMOHAN, J

CHIEF JUSTICE

JULY 22, 2010

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