

3, 4, 5 & 47.

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Delivered on: 01.06.2010*

+ W.P.(C) 3626/2010

RAM KISHAN AND ORS Petitioners

Through : Mr. B.S. Maan and Mr. Jai Prakash, Advs.

versus

DDA AND ORS Respondents

Through : Mr. Rajiv Bansal, Adv. for the DDA.

Mr. Nintinjay Chaudhary, Adv. for Mr. Digvijay

Rai, Adv. for respondent no.2.

Mr. Sanjay Poddar, Adv. for respondent no.3.

[4]

+ W.P.(C) 3627/2010

MAHENDER SINGH AND ANR Petitioners

Through : Mr. B.S. Maan and Mr. Jai Prakash, Advs.

versus

DDA AND ORS Respondents

Through : Mr. Rajiv Bansal, Adv. for the DDA.

Mr. Nintinjay Chaudhary, Adv. for Mr. Digvijay

Rai, Adv. for respondent no.2.

Mr. Sanjay Poddar, Adv. for respondent no.3.

[5]

+ W.P.(C) 3630/2010

JAIPAL AND ORS Petitioner

Through : Mr. B.S. Maan and Mr. Jai Prakash, Advs.

versus

DDA AND ORS Respondents

Through : Mr. Rajiv Bansal, Adv. for the DDA.

Mr. Nintinjay Chaudhary, Adv. for Mr. Digvijay

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

Rai, Adv. for respondent no.2.

Mr. Sanjay Poddar, Adv. for respondent no.3.

[47]

+ W.P.(C) 3833/2010

SHISH PAL & ORS.

..... Petitioner

Through : Mr. B.S. Maan and Mr. Jai Prakash, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.

..... Respondents

Through : Mr. Rajiv Bansal, Adv. for the DDA.

Mr. Nintinjay Chaudhary, Adv. for Mr. Digvijay

Rai, Adv. for respondent no.2.

Mr. Sanjay Poddar, Adv. for respondent no.3.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

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

G.S.SISTANI, J. (ORAL)

1. Learned counsel for the petitioner submits that the petitioners in all the four matters are identically placed. For the sake of convenience, petitioner relies on the facts of the case of W.P.(C)No.3626/2010.
2. Counsel for the petitioners submits that on 28.4.1972 land belonging to the petitioners and their father as well as other land owners situated in the lal dora / extended abadi of Village Nangal Dewat was notified under Section 4 of the Land Acquisition Act

for public purpose of expansion of Palam Airport. Pursuant to the said notification under Section 4 an award No.16/1986-17 was made on 14.8.1986. In the year 1982 acquisition proceedings were challenged by the villagers / land owners by filing a Writ petition No.481/1982 in this Court, which was disposed of on 2.8.2001 on the basis of a statement made by the Airport Authority of India to the effect that all those persons whose land had been acquired would be allotted alternative plots at Rangpuri / Rehabilitation site of Village Nangal Dewat for which land was already acquired by Airport Authority of India. Various directions were issued from time to time for implementation of the scheme of rehabilitation programme and services of DDA were engaged for preparation of lay out plan of the plots, making the allotments, execution of conveyance deed, etc., in favour of the allottees. In April, 2004, a Nodal Officer was also appointed with a direction to prepare a consolidated list of all the persons entitled along with details of total land holding of such persons so that the size of the plot to be allotted to such persons could be determined. On 16.12.2004, Nodal Officer submitted a consolidated list of persons entitled before this Court wherein the names of 316 eligible persons were included. Counsel for the petitioners further submits that the names of the petitioners were included in the list prepared by the Nodal Officer at the following Serial numbers:



1.	W.P.(C)No.3626/2010	Sl. No.203.
2.	W.P.(C)No.3627/2010	Sl. No.268
3.	W.P.(C)No.3630/2010	Sl. No.214
4.	W.P.(C)No.3833/2010	Sl. No.153

3. Counsel for the petitioners submits that no third person has challenged the entitlement of the petitioner and the same has attained finality. Counsel further submits that, as directed by this Court, draw of lot was held on the basis of the said list, the name of the petitioners [in W.P.(C)NO.3626/2010] were included in category 10 and a plot measuring 450 sq. mts., bearing no.43, Block D, was allotted to the petitioners; the name of the petitioners [in W.P.(C)NO.3627/2010] was included in category 11 and a plot measuring 550 sq. mts. bearing no.15, Block B was allotted to the petitioners; the name of the petitioners [in W.P.(C)NO.3630/2010] were included in category 11 and a plot measuring 550 sq. mts., bearing no.16, Block B, was allotted to the petitioners; and the name of the petitioners [in W.P.(C)NO.3833/2010] were included in category 12 and a plot measuring 650 sq. mts., bearing no.4, Block C, was allotted to the petitioners at rehabilitation site i.e. Rangpuri, Vasant Kunj, New Delhi. Consequent to allotments made to the petitioners, DDA issued allotment letters to the petitioners. Counsel also submits that on 27.4.2010 petitioners applied to the



DDA for handing over possession of the said plots as all formalities stand completed. Petitioners also applied for execution of Conveyance Deed to enable them to get the plan sanctioned and carry out construction over the plots.

4. Grievance of the petitioners is that despite their name being in the list prepared by the Nodal Officer as far back as on 16.12.2004 and their names having been included in the draw, which was held on 6.10.2005, and despite the allotment letters having been issued to them on 19.6.2007 neither the possession of the plots has been handed over to them nor Conveyance Deed has been executed in their favour for no reason and they are suffering irreparable loss.
5. Issue notice to show cause as to why the petition be not admitted. Mr. Rajiv Bansal, Advocate, accepts notice on behalf of the respondent DDA; Mr. Nitinjay Chaudhary, Advocate, accepts notice on behalf of respondent no.2 and Mr. Sanjay Poddar, Advocate, accepts notice on behalf of respondent no.3.
6. Mr. Rajiv Bansal, counsel for respondent DDA, submits that neither the possession has been handed over nor Conveyance Deed has been executed in favour of the petitioners in the present petitions in view of the fact that in the writ petition being no.5606/2007 filed by one Sh. Deepak Sehrawat a Single Judge of this Court on 28.8.2008 had passed the following order:

X

"Notice. Counsel for the respondents accepts notice. Reply be filed within four weeks. Rejoinder be filed before the next date.

Any action taken during the pendency of the writ petition shall be subject to the orders of the Court."

7. Mr. Bansal, counsel for the DDA, further submits that it is in view of the order dated 28.8.2007 that the DDA has not handed over the possession of the plots to the petitioners as also executed the Conveyance Deed in their favour.
8. Counsel for the petitioners submits that the petitioners cannot be made to suffer on account of the pendency of writ petition no.5606/2007 in which the petitioners are not party and in any case there are no objections either from the DDA or any third person with respect to the allotment made in favour of the petitioners. Counsel, on instructions, further submits that petitioners are willing to give an undertaking to the DDA that (i) any allotment made in their favour shall be subject to the final outcome in the writ petition No.8618/2008; (ii) no special equities will flow in their favour; (iii) upon handing over possession of the plots, in question, and execution of Conveyance Deed in their favour in case any construction is carried out by them, the same shall be in accordance with law; and (iv) they will not sell, alienate, transfer the plots without prior permission of the Court.
9. The stand taken by the petitioners is fair and just. It may be noticed that the land belonging to the petitioners was acquired

as far back as in the year 1992 and possession was taken over by respondent no.2 in the year 2007. Petitioners have been rendered homeless. Despite, various orders passed from time to time by this Court, the petitioners have not been rehabilitated till date. Accordingly, present petition is allowed, subject to the petitioners furnishing an undertaking to the DDA within four weeks from today clearly stating that (i) any allotment made in their favour shall be subject to the final outcome in the writ petition No.8618/2008; (ii) no special equities will flow in their favour; (iii) upon handing over possession of the plots, in question, and execution of Conveyance Deed in their favour in case any construction is carried out by them, the same shall be in accordance with law; and (iv) they will not sell, alienate, transfer the plots without prior permission of the Court. DDA is directed to hand over possession of the plots to the petitioners, subject to all other formalities being completed and thereafter execute a Conveyance Deed in favour of the petitioners within eight weeks.

10. Petition stands disposed of in view of above.
11. Let copy of the order be given dasti to counsel for the parties under the signatures of the Court Master.


G.S. SISTANI, J.

June 01, 2010

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