

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

Date of decision: 23rd September, 2011

+ **W.P.(C) 7021/2011**

% **SITARE & ORS. Petitioners**

Through: Mr. H.K. Chaturvedi, Adv.

Versus

DDA & ORS. Respondents

Through: Mr. Rajiv Bansal & Mr. Rahul
Bhandari, Adv. for R-1/DDA.
Mr. O.P. Saxena & Mr. Vaibhav
Sethi, Advs. for R-3/DUSIB.

AND

+ **W.P.(C) 917/2011**

% **SHANKAR PRASAD Petitioner**

Through: Mr. H.K. Chaturvedi, Adv.

Versus

DDA & ORS. Respondents

Through: Mr. Rajiv Bansal & Mr. Rahul
Bhandari, Adv. for R-1/DDA.
Ms. Sana Ansari, Adv. for GNCTD.

AND

+ **W.P.(C) 1839/2011**

% MORBATI & ORS. Petitioners

Through: Mr. H.K. Chaturvedi, Adv.

Versus

DDA & ORS. Respondents

Through: Mr. Rajiv Bansal & Mr. Rahul Bhandari, Adv. for R-1/DDA.
Ms. Sana Ansari, Adv. for GNCTD.
Mr. O.P. Saxena & Mr. Vaibhav Sethi, Adv. for R-3/DUSIB.

AND

+ **W.P.(C) 2943/2011**

% MUNNA SINGH & ORS. Petitioners

Through: Mr. H.K. Chaturvedi, Adv.

Versus

DDA & ORS. Respondents

Through: Mr. Rajiv Bansal & Mr. Rahul Bhandari, Adv. for R-1/DDA.
Ms. Sana Ansari, Adv. for GNCTD.
Mr. O.P. Saxena & Mr. Vaibhav Sethi, Adv. for R-3/DUSIB.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | Not necessary |
| 2. | To be referred to the reporter or not? | Not necessary |

3. Whether the judgment should be reported in the Digest? Not necessary

RAJIV SAHAI ENDLAW, J.

1. W.P.(C) No.7021/2011 has come up for consideration for the first time today. The six petitioners claim to have earlier been residents, since prior to the year 1994, of Jhuggi Jhopri Cluster (JJC) in Jasola Village where demolition was carried out on 09.06.2009. They claim to be entitled to re-location in accordance with the Policy of the respondent No.2 Govt. of NCT of Delhi (GNCD). This petition has been filed seeking mandamus therefor.

2. The land underneath the said JJC of which the petitioners claim to have been earlier resident of is stated to belong to respondent No.1 DDA. The Delhi Urban Shelter Improvement Board (DUSIB) (wrongly mentioned as Delhi Urban Centre Improvement Board in the memo of parties) which is vested with the power to carry out the survey and determine the eligibility for re-location in accordance with the Policy aforesaid has been impleaded as respondent No.3.

3. The counsel for the respondent No.3 DUSIB appearing on advance notice has stated that though DUSIB carries out the survey and determines the eligibility on receiving reference from the agency owning the land underneath the JJC but the respondent No.1 DDA has a separate Policy for rehabilitation / re-location and the respondent No.1 DDA itself carries out the survey / determination of eligibility also.

4. The counsel for the respondent No.1 DDA also appearing on advance notice however denies that the respondent No.1 DDA has any separate Policy or separate mechanism for carrying out the survey / determining the eligibility and contends that it is also covered by the policies in this regard of the respondent No.2 GNCTD. He also refers to several other petitions where this Court has directed the DUSIB to carry out survey / determine eligibility qua Jhuggi Jhopri Dwellers (JJD) on respondent No.1 DDA's land also.

5. Undoubtedly, in the past in other matters no such plea has been taken of respondent No.3 DUSIB being not required to or empowered to carry out

the survey / determine eligibility for re-location of squatters on DDA land and this Court has issued several orders for such survey / determination.

6. Need is not felt to issue formal notice of the petition or to call for affidavits / replies inasmuch as no mandamus as sought of re-habilitation / re-location of the petitioners can be issued unless the entitlement of the petitioners is determined by respondent No.3 DUSIB and which has not been done till now. The only direction to be thus made in this petition, since the petitioners have already been dispossessed, is of the eligibility if any of the petitioners to be determined.

7. The counsel for the petitioners at this stage states that he has on behalf of certain other erstwhile residents of the same JJC, also filed W.P.(C) Nos.917/2011, 1839/2011 & 2943/2011 of which notices have been issued and which are listed next on 01.12.2011. On request of the counsels, the files of the said W.P.(C) Nos.917/2011, 1839/2011 & 2943/2011 also have been requisitioned from the Registry and the next date of 01.12.2011 therein is cancelled and the same are also taken up for hearing.

8. A counter affidavit of the department of Urban Development, GNCTD is found to be filed in W.P.(C) Nos.917/2011 & 1839/2011. It is stated therein that the respondent No.3 DUSIB has been nominated as the nodal agency for implementation of the Scheme for re-location / re-habilitation of JJC from the lands belonging to MCD and Delhi Government and its departments / agencies and that in case of Central Government / agencies like Railways, DDA, L&DO, Delhi Cantonment Board, NDMC they are free to carryout the re-location / re-habilitation by themselves as per the Policy of the Delhi Government or may entrust the job to respondent No.3 DUSIB.

9. I am of the opinion that once the Policy of re-location / re-habilitation is of the respondent No.2 GNCTD, no distinction can be made between JJDs over land belonging to MCD and the JJDs over land belonging to respondent No.1 DDA. Since this Court has in the past issued directions to respondent No.3 DUSIB for determination of eligibility of JJDs on land of respondent No.1 DDA also, no reason is found for not issuing similar order in these four petitions also.

10. The petitions are disposed of with the following directions:
- (i) The agency owning the land underneath the JJC at Jasola, demolition action whereat was carried out on 09.06.2009, whether DDA or otherwise, is deemed to have made reference to the respondent No.3 DUSIB for determining the eligibility of the petitioners in all the four petitioners for re-location / re-habilitation in accordance with the Policy of the respondent No.2 GNCTD;
 - (ii) The respondent No.3 DUSIB to accordingly so determine the eligibility of the petitioners;
 - (iii) The petitioners to appear before the respondent No.3 DUSIB along with all their documents in this regard, in the first instance on 20.10.2011 and thereafter on such further dates as may be necessary;
 - (iv) The respondent No.3 DUSIB to make endeavour to complete

the enquiry / determination within one year thereof;

- (v) The department of Food & Civil Supplies and other concerned departments from whom respondent No.3 DUSIB may need to verify to determine the eligibility of the petitioners, are directed to supply all information sought to respondent No.3 DUSIB and to render other assistance if any sought;
- (vi) If the petitioners or any of them are so found eligible, they be re-located / re-habilitated in accordance with the Policy. However, the petitioners or such of them who are not found eligible, if not found eligible, shall have remedies in law.

The petitions are disposed of. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

SEPTEMBER 23, 2011

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