

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment Reserved On: 29<sup>th</sup> November, 2011  
Judgment Delivered On: 2<sup>nd</sup> December, 2011

+ RFA (OS) 30/2011

RAM SINGH ..... Appellant  
Through: Mr.V.Shekhar, Sr.Advocate with  
Ms.Deepakshi Jain, Advocate

versus

DELHI DEVELOPMENT AUTHORITY  
& ORS. ....Respondents  
Through: Ms.Shobhana Takiar, Advocate for R-1  
Ms.Kajal Chandra, Advocate for R-3

CORAM:  
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG  
HON'BLE MR. JUSTICE S.P. GARG

PRADEEP NANDRAJOG, J.

1. Of lately, this Court has been noting that in large number of cases, rules pertaining to pleadings are being given a total burial. Loose, laconic and vague pleadings result, depending upon the vigilance of the Judge concerned, either complaints being nipped in the bud or suits being dragged on indefinitely.
2. Instant case falls in the first category. A vigilant Judge has seen through the vagueness of the case projected by the appellant/plaintiff. The complaint has been nipped in the

bud. Vide impugned judgment and order dated 27.10.2010 it has been held that since the plaint does not disclose a triable cause of action, the same stands rejected.

3. Rules of pleadings stand crystallized under various rules of Order 6 of Code of Civil Procedure. Rule 2 of Order 6 reads as under:-

**“2. Pleading to state material facts and not evidence**

– (1) Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.

(2) Every pleading shall, when necessary, be divided into paragraphs, numbered consecutively, each allegation being, so far as is convenient, contained in a separate paragraph.

(3) Dates, sums and numbers shall be expressed in a pleading in figures as well as in words.”

4. Highlighting that the mandate of the rule is that pleadings must contain a statement in a concise form of the material facts on which the party pleading relies for its claim or defence, it needs however to be noted that Rule 4 of the same order further expands by requiring particulars to be given where necessary. Rule 4 of Order 6 reads as under:-

**4. Particulars to be given where necessary** – In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.”

5. Under Rule 9 of Order 6, where the contents of a document are material, it is the duty of the party to state in the pleadings the effect thereof. In the latest pronouncement on the subject, being the decision reported as 2011 (6) SCALE 677 Ramrameshwari Devi & Ors. Vs. Nirmala Devi & Ors., highlighting how frivolous litigations are being instituted and how these frivolous litigations are choking the stream of justice, with reference to the importance of pleadings, in sub-para 'A' of para 52 of the decision, the Supreme Court observed as under:-

"A. Pleadings are foundation of the claims of parties. Civil litigation is largely based on documents. It is the bounden duty and obligation of the trial judge to carefully scrutinize, check and verify the pleadings and the documents filed by the parties. This must be done immediately after civil suits are filed."

6. In the decision reported as 1987 (2) SCC 555 Ram Sarup Gupta (Dead) by LRs Vs. Bishun Narain Inter College & Ors., highlighting the object and purpose of pleadings, in para 6, it was observed as under:-

"6. .... The object and purpose of pleading is to enable the adversary party to know the case it has to meet. In order to have a fair trial it is imperative that the party should settle the essential material facts so that other party may not be taken by surprise."

7. With reference to the decisions reported as 1974 (76) BLR 368 Pandu Dhongi Yerudkar Vs. Ananda Krishna Patil and Air 1982 Bom. 491 M/s. Nilesh Construction Company & Anr. Vs. Mrs. Gangubai & Ors., in the decision reported as AIR 1999 SC 1464 D.M.Deshpande & Ors. Vs. Janardhan Kashinath KAdam & Ors., in para 9 and 11, the Supreme Court highlighted that '*a vague plea does not justify an issue being*

*framed'* and further, where no material in support of a plea has been set up anywhere in any form, the Court would be justified in not settling an issue requiring the parties to traverse the torturous path of a trial.

8. With the aforesaid preamble statement by way of reminding ourselves as to what is the law on the subject which we need to keep in mind, we proceed to analyze the correctness of the view taken by the vigilant Trial Judge, who as noted hereinabove, has nipped the plaint in the bud.

9. Appellant Ram Singh claimed to be the legal heir i.e. the son of Late Sh.Lahri Singh. He pleaded in the plaint instituted on 6.7.2009, but from the dates typed as also the date of verification, drafted on 9.9.2008, that Late Sh.Lahri Singh was the recorded owner of property bearing Khasra No.278/279/281 as also Khasra No.1522/280 and Khasra No.1554/280 in the revenue estate of village Karkardooma, area whereof has nowhere being disclosed in the plaint. Pleading that the defendants i.e. DDA, the Land Acquisition Collector and Employees State Insurance Corporation never disputed Lahri Singh's ownership who cultivated the land as land owner thereof, it was stated that land owned by Lahri Singh was acquired by the Land Acquisition Collector save and except the suit land and thus it was pleaded that Lahri Singh continued to be the owner in possession of the land.

10. Surprisingly enough, in the very next paragraph of the plaint i.e. paragraph 4 it pleaded: '*That in fact the land in dispute was de-notified by the Union of India as per policy as the Lahri Singh colony is 100% built up colony*'. In the next paragraph it was pleaded that Lahri Singh colony stands de-

notified and regularized on the basis of a lay out plan. Thereafter it is pleaded that since ESIC was extending threats to take forcible possession of the land, Ram Singh filed a suit for permanent injunction but since during pendency of the suit he was dispossessed, after withdrawing the suit, he had filed the suit in question wherein the prayer made is to direct defendants to hand over possession of the land in question to Ram Singh as also the declaration that Ram Singh be declared as the owner of the property.

11. Relevant would it be to note that there are contradictory pleadings in the plaint. Whereas in paragraph 3 it is pleaded that the land was never acquired. In the very next paragraph it is pleaded that the land in dispute was de-notified by the Union of India as per policy.

12. Now, what do you mean by the word de-notified. Nothing has been stated in the plaint. But, with reference to the Land Acquisition Act 1894, de-notified land would mean such lands which have been acquired but thereafter a notification is issued under Section 48 of the Land Acquisition Act 1894.

13. Whether the battle was intended to be fought on the premise that the land was never acquired or that it was de-acquired, was nowhere clarified in the plaint.

14. The documents filed along with the plaint under cover of an index dated 6.7.2009 were 7 in number. (i) Copy of the site plan (ii) Copy of the lay out plan of Lahri Singh colony (iii) Copy of the suit for permanent injunction filed by Ram Singh (iv) Copy of fard (v) Copy of the National Rehabilitation and Resettlement Policy (vi) Copy of the

judgment in W.P.(C) No.3523/2001 and (vii) Copy of the order in W.P.(C) No.599/2008.

15. The relevance of the decisions of the Court at serial No.(vi) and (vii) of the list of documents has not been brought out in the pleadings but suffice would it be to state that the first is an order on the subject where without acquisition, the Municipal Corporation of Delhi was treating the land to be acquired and as per a resolution had prescribed the user of the land as a 'park'. The petitioner of W.P.(C) No.3523/2001 wanted to construct upon the land as necessary permissions were not being granted. The decision held that unless the land was acquired, MCD could not stake a claim qua title for the land. The second decision pertains to a writ petition filed by Ram Singh which was withdrawn with liberty to file a civil suit.

16. With respect to the other 5 documents filed, learned counsel for the appellant conceded that reliance upon the National Rehabilitation and Resettlement Policy was irrelevant on subject matter of the suit filed.

17. With reference to the lay-out plan of Lahri Singh colony, learned counsel for the appellant conceded before us that the same does not bring out anywhere that the subject lands fall within the layout of the colony and stand regularized as pleaded.

18. The only document of relevance therefore would be the fard. The fard pertains to the khasra girdawari wherein the ownership of one Phool Singh and others is recorded and cultivatory possession of Lahri Singh is recorded with respect to land comprised in Khasra Nos.277, 278, 279, 1552/280 and 1554/280. It pertains to the kharif and the rabi crop for the

year 2008-09 and 2009-10. The total area of the land comprised in all aforesaid khasra numbers is shown to be a meager 3 biswa i.e. 151 sq.yds. This aspect we shall highlight a little later after noting the defence but suffice would it be to state that in the fard relied upon, ownership of Lahri Singh is not recorded. The argument of learned counsel for the appellant that the fard records ownership of Phool Singh and others is neither here nor there for the reason where is the proof that in the category of 'others' Lahri Singh is one amongst the many others. We shall also be reserving our comment upon the fard after we note the defence.

19. In the written statement filed by ESIC it was pleaded that the suit filed in respect of the land as per the site plan filed along with the plaint shows that the land in question ad-measures 1450 square meters is the subject matter of dispute. It was pleaded that the land was allotted by DDA to ESIC for valuable consideration and possession was handed over on 21.3.1986. It was pleaded that one Chattar Singh and Ram Singh have been repetitively filing suits claiming title to the said land. Another suit has been filed by Gurudwara Singh Sabha which also claims title to the land in question. For our purpose we need to highlight that it was clearly brought out in the written statement filed by ESIC that the land in question, in its possession and as shown in the site plan filed by the plaintiff, ad-measures 1450 square meters.

20. In the written statement filed by DDA it was pleaded that the land was acquired under the Land Acquisition Act 1894 and possession handed over to DDA on 23.3.1984 and that on 3.4.1984 the Central Government issued a

notification under Section 22 of the Delhi Development Act 1957 placing said land, apart from others, at the disposal of DDA for purposes of the Plan Development of Delhi.

21. The defendants filed the necessary documents i.e. the possession report dated 23.3.1984 pertaining to award No.54/1969-70. The notification dated 3.4.1984 under which 10 bigha land was placed at the disposal of DDA for purposes of Plan Development of Delhi. The letter dated 28.1.985 whereunder DDA placed at the disposal of ESIC 1450 square meters of land for purposes of constructing an ESI dispensary.

22. The learned Single Judge has held that the suit was based on a title and that the fard in question was the only title document which recorded one Phool Singh and others as the owner. But, there was no document filed that Lahri Singh was one amongst many others. The learned Single Judge has held that a party seeking relief should approach the Court with all material in its possession. The learned Single Judge has further noted that in paragraph 3, the plaintiff admitted that the land was acquired. In the next paragraph it was pleaded that the acquired land was de-notified. No such notification was placed. Reliance upon the list of colonies regularized was held to be insufficient on the issue whether the subject land falls within the area of the regularized unauthorized colony.

23. For the law noted hereinabove, the learned Single Judge is absolutely correct in the view which he has taken. We affirm each and every finding returned by the learned Single Judge and supplement the same by noting that the fard relied upon pertains to only 3 biswa of land which comes to 151 square yards land. The site plan filed as also the relied upon

documents by the defendants would show that the area of the plot in possession of ESIC ad-measures 1450 square meters.

24. We had promised to speak a little on the fard. We are surprised that the fard which has been issued by the Patwari in the year 2010 recording possessions for the year 2008-09 and 2009-10 has been able to identify 3 biswa of land comprised in Khasra No.277, 278, 279, 1552/280 and 1554/280. It is highly doubtful whether 3 biswa of land could fall within 5 khasra numbers. Regarding possession of Lahri Singh, we find that pertaining to the stated cultivation on the land, it is mentioned that the land is built upon. If the pleadings in the plaint is correct that an unauthorized colony came up in the area and the subject land is part of the unauthorized colony, we would find it strange that the patwari was able to locate 3 biswa of land and identify its user with precision. It shows the extent to which the revenue officers are colluding with unscrupulous elements in Delhi.

25. We had repeatedly asked learned counsel for the appellant that if the subject land falls within the precincts of Lahri Singh colony the appellant should show us the site of the plot in question within the boundary or the precincts of the Lahri Singh colony which has been regularized. Learned counsel could not do so.

26. Highlighting that the Gurudwara Singh Sabha, one Chattar Singh and Ram Singh are all claiming title and possession to the same land; noting further that the defendants have documents of title in their favour in the form of the lands being acquired and placed at the disposal of DDA by the Central Government pursuant to a notification issued

under Section 22 of the Delhi Development Act 1957, we proceed to dismiss the appeal imposing cost in sum of ₹50,000/- upon the appellant which shall be shared equally by DDA and ESIC.

**(PRADEEP NANDRAJOG)**  
**JUDGE**

**(S.P.GARG)**  
**JUDGE**

**DECEMBER 02, 2011**  
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