

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

Reserved on: 17th July, 2012
Pronounced on 3rd August, 2012

+ **W.P. (C) No.865/2000**

DIVINE UNITED ORGANISATION ...Petitioner
Through: Mr. Arvind K.Nigam, Senior
Advocate with Mr. Samrat
K.Nigam, Advocate

Versus

THE GOVT. OF NCT OF DELHI & ANR. ...Respondents
Through: None.

&

+ **W.P.(C) 40/2001**

DIVINE UNITED ORGANISATION ...Petitioner
Through: Mr. Arvind K. Nigam, Senior
Advocate with Mr. Samrat
K.Nigam, Advocate

Versus

THE GOVT. OF NCT OF DELHI & ANR. ...Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

1. In the above captioned first writ petition, the challenge is to the proceedings of 27th December, 1999 (Annexure P-17) vide which upon demarcation, the physical possession of 161 *bighas*

and 17 biswas of land detailed therein, belonging to *Gram Sabha* was taken over consequent upon petitioner being evicted therefrom in pursuance to the Eviction Orders passed. Pertinently, the office bearer of the petitioners were also party to the impugned proceedings (Annexure P-17). The relief sought in the aforesaid first petition is to quash the proceedings (Annexure P-17) and to direct the respondents to decide petitioners' application for grant of Lease in respect of *Khasra* Nos. 345(5-06), 347(1-07), 349(46-0), 350(0-14), 351(0-18), 357(2-14), 364min(60-07), 370(16-13) and 371min(27-18), Village- Saharanpur, New Delhi, (*hereinafter referred to as the 'subject land'*) for a period of ninety nine years, as similar Lease has been granted to *Radhaswamy Satsang* etc.

2. In the above captioned second writ petition, the order impugned is of 27th December, 2000, vide which 34 acres of land i.e. the subject land allotted to the petitioner on 26th May, 2000 stood cancelled in the light of order of 7th November, 2000 of Lieutenant Governor of National Capital Territory of Delhi.

3. Learned senior counsel for the petitioner had submitted that since the above captioned petitions are inter-related, therefore, they be taken up together for hearing and so, after having heard these two matters, they are being disposed of by this common order.

4. Petitioner- a registered Society said to be running *Shri Sant Yog Ashram* from the subject premises since the year 1979, asserts that in the year 1982, a road was built along with the southern boundary of the subject land, adversely affecting the tranquility of the petitioner – Ashram and some *Gaon Sabha* land had been

bifurcated by the said public road. As per the petitioner- Society, a wall was built along with the southern boundary of the petitioner – Ashram and as a result thereof, some *Gaon Sabha* land came to be occupied by the petitioner and additionally, some land was leased to the petitioner by the *Gaon Sabha*.

5. Petitioner's counsel asserts despite Eviction Orders (Annexure P-12 *colly*) under Section 86 A of the *Delhi Land Reforms Act, 1954* which were confirmed by the Financial Commissioner vide order of 10th November, 1983 (Annexure P-13 *colly*), were never executed and the petitioner continued to remain in possession of the subject land. However, vide impugned proceedings (Annexure P-17), respondents had demolished part of the boundary wall and locked the two gates to seek possession of some of the subject land, as indicated in the proceedings (Annexure P-17) without complying with the principles of natural justice and hence, the proceedings (Annexure P-17) deserve to be quashed.

6. At the very outset, I find that bare perusal of the proceedings (Annexure P-17) makes it abundantly clear that the Secretary and the Treasurer of the petitioner – *Yog Ashram* were very much party to the proceedings (Annexure P-17) as their signatures appear on the aforesaid proceedings. It is not the case of the petitioner that they were made to sign the aforesaid proceedings under duress.

7. Thus, finding that no foundation has been laid for quashing of the proceedings (Annexure P-17), I dismiss the first writ petition i.e. W.P.(C) No. 865/2000.

8. In the above captioned second writ petition, the cancellation of the allotment of 34 acres of land to the petitioner –Society is

assailed by learned senior counsel for the petitioner on the ground that the impugned cancellation of the subject land to the petitioner is behind the back of the petitioner and without following the principles of fair play and natural justice. It was vehemently urged by learned senior counsel on behalf of the petitioner that the impugned cancellation of allotment of the subject land is colourable exercise of power and is not countenanced by the terms of the Lease, as Clause-8 of the Lease Deed gives the right to the lessor to cancel the Lease if the land is required for any other public purpose or on account of breach of any of the terms and conditions of the Lease and on no other ground whatsoever. Thus, quashing of the impugned cancellation order (Annexure-P) is sought.

9. At the hearing of this matter, none was present on behalf of the respondents. But this would be no impediment, as the counter of the respondents is on record which in sum and substance states as under:-

'In the application addressed to the Chief Minister seeking a 99 year lease for the land (141/143/C), the petitioner did not bring out the following material facts. Firstly, that their possession over the Gaon Sabha land was unauthorized. Secondly, that they had been dispossessed of the land by Government action in December 1999. Thirdly, that their application for lease of land has been rejected earlier by the Lt. Governor.'

10. Respondents have also placed on record notings of the office of the Lieutenant Governor of 8th November, 2000 and order of 10th November, 2000 of the Lieutenant Governor, Delhi which is self speaking and the aforesaid noting as well as order is as under:-

‘This file was called for when it came to notice that the allotment of gaon sabha land in this case was made after Lt.Governor had directed that no allotment of gaon sabha land should be made by the office of the Development Commissioner. In another case where allotment had similarly been made Chief Minister has recommended cancellation of the orders of the allotment to that organization. A copy of her recommendation for cancellation and L.G.’s approval thereafter is placed on file for ready reference. L.G. may like to kindly minute his orders in this case.

*Sd/-
(Smt. B. Prasad)
Secretary to Lt. Governor
8th November, 2000*

From pre-page

The allotment made in this case stands cancelled. The department should ensure that all necessary steps are taken to retrieve the land and secure it from encroachment. Compliance should be reported to me.

*Sd/-
Vijay Kapoor
Lt. Governor, Delhi
10th November, 2000’*

11. In the instant case, the subject land was leased out to the petitioner by the Chief Minister of Delhi vide order of 26th April, 2000 upon petitioner’s Representation wherein it was concealed that similar request of the petitioner for allotment of the subject land was already rejected by the competent authority i.e. Lieutenant Governor of Delhi on 23rd February, 2000. When this concealment came to the notice of the Chief Minister of Delhi, immediately the allotment letter of 26th April, 2000 was recalled and after the approval of the recall, the cancellation of the subject

land stands approved by the Lieutenant Governor of Delhi, which is the basis of the impugned cancellation.

12. It is further disclosed in the counter affidavit by the respondents that the subject land was '*ear marked for afforestation by the Lieutenant Governor of Delhi*' to reduce pollution in Delhi and so, the subject land could not have been allotted to the petitioner which is a non-governmental body. It also stands disclosed in the counter affidavit by the respondents that vide Notification No.33(8)/87/sk/Rev/5970 of 3rd November, 1987 the lands in question had been reserved for works of public utility and for development of forests and trees.

13. In the light of the afore-noted revealing disclosure in the counter affidavit by the respondents, the plea of the petitioner of violation of principle of natural justice cannot be accepted because the petitioner had obtained the impugned allotment by concealment of the fact that earlier a similar request of the petitioner for allotment of subject land stood rejected by the competent authority on 23rd February, 2000.

14. So, finding no substance in this matter, I dismiss this petition i.e. W.P.(C) No.40/2001 with cost of ₹10,000/- only to be deposited with the Delhi High Court Legal Services Committee within a week.

15. Both these petitions are accordingly dismissed while vacating the interim order of *status quo*.

(SUNIL GAUR)
JUDGE

August 03, 2012

rs