

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

% Judgment reserved on : 16.07.2013
Judgment pronounced on : 24.07.2013

+ W.P.(C) 6065/2010

JAGWANTI

..... Petitioner

Through Mr. Anand Yadav with Ms. Anita
Tomar, Advs.

Versus

LT. GOVERNOR NCT OF DELHI & ORS. Respondents

Through Ms. Shawana Bari for Mr. Rajiv
Nanda, Advs. for respondents no.1
to 4.

CORAM:
HON'BLE MR. JUSTICE V.K. JAIN

V.K. JAIN, J.

The petitioner claims to be the owner of land measuring 1 bigha and 8 biswas out of Khasra No.78/9 min. (0-12) and Khasra no.78/10 min (0-16) situated in the Revenue Estate of Village Ladpur, Delhi. The said Khasras are stated to be on the village *phirni*. According to the petitioner, he is using the said land by constructing a dwelling house and for other purposes, required in the rural areas. According to the petitioner, if village *phirni/ laldora* is extended in the consolidation proceedings of the

aforesaid village, these khasras would be part of the extended *abadilaldora*, they being adjacent to the village *phirni*. It is alleged that the respondents are contemplating demolition of the structures raised by the villagers including the structure raised by the petitioner in Khasra No.78/9 min. (0-12) and Khasra no.78/10 min (0-16) situated in the Revenue Estate of Village Ladpur, Delhi. The petitioner is accordingly seeking a direction to carry out the consolidation of holdings in Village Ladpur, under the provisions of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, in a time-bound manner with the direction to extend the *abadil laldora* of the village. She is also seeking an order restraining the respondents from demolishing any structure in Khasra No.78/9 min. (0-12) and Khasra no.78/10 min (0-16) situated in the Revenue Estate of Village Ladpur, Delhi.

2. In their counter affidavit, the respondents have stated that the consolidation proceedings started in Village Kanjhawala in the year 1997 are still going on and it would not be prudent to take up consolidation of any more villages till the said consolidation is complete. It is further stated that survey of Village Ladpur is under process to identify the encroachment of Gaon Sabha Land. It is also stated in the counter-

affidavit that the respondents have carried out demolition only if the unauthorized construction is attempted by the colonizers / unscrupulous persons to cut plots/ colonies on the agricultural land illegally and without any authority of law. It is also stated that the *bhuimdar* can construct the dwelling unit/ house, on the agricultural land, with the prior permission of the concerned authorities. It is stated that the authorities have no intention of carrying on demolition of construction of the petitioner in Khasra No.78/9 min. (0-12) and Khasra no.78/10 min (0-16) situated in the Revenue Estate of Village Ladpur, Delhi in near future without following due process of law.

3. Two prayers have been made in this petition, the first being to carry out the consolidation of holdings in Village Ladpur and the other being to restrain the respondents from demolishing the structure and construction of the petitioner in Khasra No.78/9 min. (0-12) and Khasra no.78/10 min (0-16) situated in the Revenue Estate of Village Ladpur, Delhi. As regards the first prayer, the learned counsel for the petitioner has failed to bring to my notice any statutory provision requiring the respondents to carry out periodical consolidation proceedings in the villages. If the respondents do not have the requisite infrastructure to

carry out consolidation proceedings, and there is no statutory requirement to undertake such an exercise, after a particular time period, direction to undertake consolidation proceedings in the particular village will not be justified. If such a direction is given, there may be several other writ petitions seeking commencement of consolidation in other villages and the respondents in the absence of infrastructure, cannot simultaneously carry out consolidation proceedings in all those villages. No direction for starting consolidation proceedings in this particular village can be given by this court.

4. The learned counsel for the petitioner during the course of hearing referred to the decision of this Court dated 3.2.2012 in **Ranbir Singh and others versus Lt. Governor NCT of Delhi and others** [W.P(C) No.879/2012]. In the above referred decision, the grievance of the petitioners before this Court was that the consolidation proceedings which had commenced in Village Daryapur Kalan in the year 1988 were not being concluded. The learned counsel appearing for the respondents brought it to the notice of the court that a direction for conclusion of the consolidation proceedings expeditiously had already been given by this Court in another writ petition. The order does not indicate as to what was

the second prayer made in the writ petition but the court was of the view that said prayer would be taken care of when the consolidation proceedings stand concluded and in any case the petitioner had remedy under East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 available to him. This judgment, therefore, does not help the petitioner in any manner.

As regards, the construction alleged to have been carried out by the petitioner in the aforesaid Khasras, I find that the petitioner has not filed either the site plan or any photograph showing the construction existing on the said land. The case of the respondents is that they are carrying out demolition action only in those cases where unauthorized colonization is indulged and they have no intention to demolish the dwelling units constructed by the land owners for their self use. In absence of any plan or photograph, it cannot be known whether the petitioner has constructed only a dwelling unit for his personal use or some kind of colonization is being attempted by him, either himself or in collaboration with others. However, considering the unequivocal stand taken by the respondents that they do not propose to demolish the dwelling unit constructed by the

land owners for their personal use, no order in this regard is felt necessary.

The writ petition stands disposed of. There shall be no order as to costs.

V.K.JAIN, J

JULY 24, 2013/rd