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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) Nos.1143/2013 & CM APPL.2180/2013, 6667/2013 & CM APPL.14470/2013, 595/2013 & CM APPL.1133/2013, 4469/2013 & CM APPL.10325/2013, 6779/2013 & CM APPL.14706/2013, 2364/2014 & CM APPL.4988/2014, 2365/2014 & CM APPL.4989/2014 2366/2014 & CM APPL.4990/2014 , 2369/2014 & CM APPL.4994/2014, 2370/2014 & CM APPL.4995/2014, 2371/2014 & CM APPL.4996/2014, 2372/2014 & CM APPL.4997/2014 , 2373/2014 & CM APPL.4998/2014, 2376/2014 & CM APPL.5002/2014, 2378/2014 & CM APPL.5003/2014, 2379/2014 & CM APPL.5004/2014, 2392/2014 & CM APPL.5027/2014, 2397/2014 & CM APPL.5030/2014, & 2398/2014 & CM APPL.5031/2014

Decided on : 23.04.2014

IN THE MATTERS OF

+ W.P.(C) 1143/2013 and CM APPL. 2180/2013

MAHINDER SINGH Petitioner
Through: Mr. D.K. Devesh, Advocate

versus

GOVT OF NCT OF DELHI & ORS Respondents
Through: Mr. V.K. Tandon, Advocate with
Mr. Yogesh Saini and Mr. Omar Siddiqui, Advocates

+ W.P.(C) 595/2013 and CM APPL. 1133/2013

SUKHDEV Petitioner
Through: Mr. D.K. Devesh, Advocate

versus

GOVT. OF NCT OF DELHI AND ORS Respondents
Through: Mr. V.K. Tandon, Advocate with
Mr. Yogesh Saini and Mr. Anuj Tyagi, Advocates

- + W.P.(C) 6667/2013 and CM APPL. 14470/2013
ISHWAR SINGH & ANR. Petitioners
Through: Mr. Somdutt Kaushik, Advocate

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. V.K. Tandon, Advocate with
Mr. Yogesh Saini and Mr. Omar Siddiqui, Advocates
- + W.P.(C) 4469/2013 and CM APPL. 10325/2013
ANOKHEE DEVI & ORS Petitioners
Through: Mr. Shivom Garg, Advocate

versus

GOVT. OF NCT OF DELHI & OTHERS Respondents
Through: Mr. V.K. Tandon, Advocate with
Mr. Yogesh Saini, Advocates
- + W.P.(C) 6779/2013 and CM APPL. 14706/2013
HARNAM SINGH Petitioner
Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents
Through: Mr. V.K. Tandon, Advocate with
Mr. Yogesh Saini and Mr. Omar Siddiqui, Advocates

+ W.P.(C) 2364/2014 and CM APPL. 4988/2014

INDER SINGH DEAD THROUGH LRS Petitioners
Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents
Through Mr.Dharmendra Tyagi, Advocate for R-1 and
R-3/GNCTD.
Mr.Shoaib Haider, Advocate for R-2/BDO
Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2365/2014 and CM APPL. 4989/2014

BIMLA Petitioner
Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents
Through Mr.Dharmendra Tyagi, Advocate for R-1 and
R-3/GNCTD.
Mr.Shoaib Haider, Advocate for R-2/BDO
Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2366/2014 and CM APPL. 4990/2014

KAMAL Petitioner
Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents
Through Mr.Dharmendra Tyagi, Advocate for R-1 and
R-3/GNCTD.
Mr.Shoaib Haider, Advocate for R-2/BDO
Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2369/2014 and CM APPL. 4994/2014

KALE Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2370/2014 and CM APPL. 4995/2014

BACHAN SINGH Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2371/2014 and CM APPL. 4996/2014

CHATHU MANDAL Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2372/2014 and CM APPL. 4997/2014

BAIJNATH SINGH Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2373/2014 and CM APPL. 4998/2014

VAJEER SINGH Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2376/2014 and CM APPL. 5002/2014

RAVI Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2378/2014 and CM APPL. 5003/2014

JANARDAN SINGH Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2379/2014 and CM APPL. 5004/2014

VADPARKASH Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2392/2014 and CM APPL. 5027/2014

LAL SINGH Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2397/2014 and CM APPL. 5030/2014

SATPAL

..... Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

+ W.P.(C) 2398/2014 and CM APPL. 5031/2014

MANGERAM

..... Petitioner

Through: Mr. D.K. Devesh, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Dharmendra Tyagi, Advocate for R-1 and R-3/GNCTD.

Mr.Shoaib Haider, Advocate for R-2/BDO

Ms.Vibha Mahajan Seth, Advocate for R-4.

CORAM

HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J. (ORAL)

1. By this common order, the Court proposes to dispose of a batch of nineteen petitions, wherein the petitioners have sought directions to the Govt. Of NCT of Delhi to permit them to undertake fresh construction on plots of land allegedly allotted to them in Khasra Nos. 129, 142 and 143, Ambedkar Colony, Chattarpur, Delhi under a 15-year *patta* issued in

pursuance to a Housing Scheme floated under the Twenty-Point Programme introduced in the year 1976, by the then Prime Minister of India.

2. For the sake of convenience, the facts narrated in W.P.(C) No. 1143/2013 are being taken into consideration. The petitioner in the said petition has claimed that on 18.06.1985, he was issued a *patta* by the Pradhan of the Gram Sabha, Chattarpur, New Delhi, allotting him a residential plot measuring 100 sq. yards comprised in Khasra Nos. 129, 142 and 143, village Chattarpur, Delhi. He claims that after the plot was allotted in his favour, he had carried out construction thereon and started to reside there alongwith his family. In the year 2004, the officers of the respondents started alleging that the petitioner's possession over the subject plot was not on the same land that had been allotted to him under the Scheme. On 6.11.2004, the respondents proceeded to demolish the petitioner's property. On 26.1.2005, the Deputy Commissioner (South) had addressed a letter to the SHO, Mehrauli permitting reconstruction at the site in question limited to the extent of the pre-existing structure that had been demolished on 6.11.2004, with a caveat that the said approval did not confer any title or interest on the Gram Sabha land in question and the ownership thereof would remain vested in the Gram Sabha.

3. Thereafter, the petitioner claims to have carried out fresh construction on the subject plot to the extent of the pre-existing structure, but alleges that on 26.7.2007, the respondent No.2/BDO had demolished his house with

the help of the police force. Yet again, on 23.3.2011, the respondent No.2/BDO came to the site with the police force and allegedly carried out partial demolition of the petitioner's house. Demolition action was undertaken for the third time in November, 2012 and finally, in January, 2013, the respondents had proceeded to dispossess the petitioner from the plot in question. On 10.2.2013, when the respondent No.4/Department of Transport, Govt. of NCT of Delhi started raising construction around the area, including the petitioner's plot, he alongwith other aggrieved parties had filed the present petitions seeking permission to carry out fresh construction over the subject plots allegedly allotted to them by virtue of the *Patta* certificates.

4. Counter affidavits in opposition to the writ petitions have been filed by the respondent No.2/BDO and the respondent No.4/Department of Transport, Govt. of NCT of Delhi. The respondent No.2/GNCTD has categorically denied that any *Patta* certificates were issued in favour of the petitioners as alleged by them, much less any allotment of plots of land made in their favour in Khasra No.129, 142 and 143. It has also been stated that Khasra No.129 is not contiguous to Khasra No.142 and 143. Counsel for the respondents states that the petitioners cannot claim any parity with 799 allottees, who were made allotments under the Twenty-Point Programme as he states that those allottees are on different footing and as per the latest existing policy formulated by the Govt. of NCT of Delhi vide order dated

19.09.2011 regarding grant of perpetual lease rights on an "as is where is basis", the same is meant for the benefit of actual allottees, who were found to be in possession of their constructed houses allotted to them. He states that the *Patta* certificates relied upon by the petitioners have no sanction of the Govt. of NCT of Delhi as the same have admittedly been issued by the *Pradhan* of the Gaon Sabha, village Chhatarpur without forwarding the list of names for obtaining approval from the Directorate of Panchayat and the list of persons recognised by the Directorate of Panchayat under the Twenty Point Programme do not include the names of the petitioners herein. It is thus stated that the petitioners are rank encroachers on Gaon Sabha land and the said land had not been allotted to them at any point in time.

5. Learned counsel for the respondents states that in the year 2004, certain parties claiming to be owners and in occupation of plots of land in Khasra No.142 and 143 had filed writ petitions before this Court and in the said proceedings, directions had been issued to the revenue authorities to demarcate the subject Khasra Nos. It is stated that pursuant to the aforesaid order, a survey was carried out by the beat staff of the Revenue Department on 06.07.2004, whereunder a survey of Khasra No.133, 142/1, 142/2, 143/1 and 143/2 was undertaken. A copy of the survey report has been enclosed with the affidavit dated 26.10.2013 and marked as Annexure R-2/A.

6. Counsel for the respondents states that a perusal of the aforesaid survey report would demonstrate that even at that point in time, Khasra No.142 and 143 were found to be vacant, except for a road constructed by the MCD, running through both the Khasras, a room that belonged to the Delhi Vidyut Board and some *Kuchcha/Pucca jhuggies*. He therefore states that the contention of the counsel for the petitioners that they had raised construction on the aforesaid plots of land much prior thereto stands demolished by the aforesaid survey report dated 06.07.2004.

7. Without prejudice to the aforesaid argument and in the alternate, it has been stated by the counsel for the respondent No.2 that even as per clause (2) of the *Patta* certificates relied upon by the petitioners, it was mandatory upon the allottee to construct a residential house on the demised plot within a period of nine years and if the aforesaid *Patta* certificates had been issued in the year 1985, the period of nine years reckoned therefrom would have ended in the year 1994, whereas the aforesaid survey report undertaken in the year 2004 reveals that on the said date, there were no residential houses found on the subject land.

8. It is therefore canvassed that the petitioners, who were rank encroachers, were rightly removed from the subject land owned by the Gaon Sabha and they have failed to demonstrate any right, title and interest in the subject land, for maintaining the present petition. In their additional affidavit dated 11.02.2014, the respondent No.2 has stated that the very fact that

the petitioners have approached this Court at such a belated stage is itself sufficient to doubt their *bona fides* and further, at the time of passing the order dated 04.02.2011 by the High Court in connected matters, including **W.P.(C) 17638/2004** entitled Dhapu vs. State and Ors., liberty was granted to the petitioners to apply to the respondents for alternative land in case the subject land was found to be in Khasra No.142 and 143, but for the reasons best known to them, the petitioners herein have chosen to remain silent.

9. A counter affidavit has also been filed by the respondent No.4/Department of Transport, wherein it has been stated that the original owner of the subject land was the Gaon Sabha. Subsequently, in the year 2006, the Transport Department was allotted land measuring 2 Bighas in Khasra No.133, 2 Bighas 10 Biswas in Khasra No.142/2 and 2 Bighas 2 Biswas in Khasra No.143/3 for the purpose of constructing the zonal office. The Transport Department paid a sum of Rs.32,41,563/- to the BDO for purchasing the aforesaid land and thereafter a joint demolition programme was arranged by the Revenue Department, Transport Department and the Directorate of Panchayat and action was taken on 24.03.2011 for removal of encroachment from the Gaon Sabha land in Khasra No.142/2 and 143/2, village Chhatarpur. In the course of the said demolition action, all the *Kuchcha-Pucca* unauthorised structures erected by the encroachers on the subject land were removed and physical possession of 4 Bighas 12 Biswas of

the Gaon Sabha land was retrieved. Thereafter, possession of the encroachment free land was handed over to the Transport Department.

10. In his rejoinder, counsel for the petitioners disputes the submissions made by the counsel for the respondents and asserts that the *Patta* certificates were legally issued by the Pradhan of the Gaon Sabha, village Chhatarpur under the Delhi Land Reforms Act, 1954 and Delhi Panchayat Raj Act, 1954. He contends that it is on the strength of the aforesaid *Patta* certificates that the petitioners have remained in possession and occupation of the subject land for fifteen years and even after expiry of fifteen years granted under the *Patta*, they had remained in occupation of the subject land and raised construction thereon that had been illegally demolished in the year 2004.

11. The petitioners have also questioned the extent of land allotted to the respondent No.4/Transport Department in Khasra No.142 and 143 and stated in their rejoinder that the Transport Department is an encroacher having taken possession of the entire Khasra No.133, 142 and 143, which is contrary to the allotment made in their favour. It is alleged that while the respondent No.4 was allotted land measuring 6 Bighas 12 Biswas out of Khasra No.142 and 143, the construction on the remaining 5 Bighas 4 Biswas of land was demolished by the respondents, without any authority in law. The petitioners have further asserted that the subject land forms a part and parcel of the *Patta* certificates and they are entitled to the relief prayed

for in the present petitions.

12. The Court has examined the averments made in the writ petitions and the affidavits filed by the respondents and after hearing the arguments advanced by the counsels for the parties, is of the opinion that disputed questions of facts have been raised in the present petitions, which include the very existence of the *Patta* certificates relied upon by the petitioners for claiming a right on plots of land, the existence of structures allegedly built by them on the subject land prior to the demolition action that took place as long back as in the year 2004 and the exact location of the plots allegedly allotted to the petitioners under the *Patta* certificates filed by them. The said issues cannot be determined in the present proceedings under Article 226 of the Constitution of India, as evidence shall have to be led by the petitioners for the Court to determine their rights, if any, on the subject land.

13. Accordingly, the Court declines to entertain the present petitions that are disposed of alongwith the pending applications while granting liberty to the petitioners to seek their legal remedies against the respondents as may be available to them in law, for establishing their entitlement to the subject land and for seeking permission to raise construction thereon.

HIMA KOHLI, J

APRIL 23, 2014

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