

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

+ **Ex.S.A No.3/2017**

% **6th September, 2017**

DELHI DEVELOPMENT AUTHORITY Appellant

Through: Mr. Sanjeev Sagar, Advocate.

versus

M/s TRILOK & CO. & ANR. Respondents

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Delhi Development Authority (DDA) is a body which controls and owns huge tracts of land in Delhi. DDA is sometimes infamous with respect to its dealings with common citizens and especially poor persons who have no approach. This second appeal filed in execution proceedings is a classic reminder that certain officers in bodies like DDA have made it almost their determination to harass commons citizens of this country and may be even for certain unstated reasons. These strong observations are made by this Court as the same are required in the facts of the case, and as stated hereinafter.

2. This is an Execution Second Appeal. The executing court passed its order dated 19.1.2015 directing the appellant/judgment debtor/DDA to cause enforcement of the judgment and decree dated 18.7.2012 whereby the respondents/decree holders succeeded in the suit after trial and were held entitled to declaration that the cancellation of the plot no. B-5, measuring 50 sq. mtrs. at Main Mangolpuri Industrial Area, Phase-I, Delhi was illegal. Decree holders hence had to be given possession of the suit plot by the appellant/judgment debtor. The appellant/judgment debtor/DDA was directed to give by the judgment and decree possession of the suit plot to the respondents/decree holders on payment of Rs.2,83,736/-, and which amount has already been received by the appellant/judgment debtor. The operative para of the judgment and decree dated 18.7.2012 in favour of the respondents/plaintiffs/decree holders and against the appellant/judgment debtor/DDA reads as under:-

“Relief:-

In view of my aforesaid discussion, the suit of the plaintiff is hereby decreed. A decree of declaration is passed in favour of the plaintiff and against the defendant declaring that plaintiff no.1 is a partnership firm and plaintiff no.2 and defendant no.2 are its partners. Plaintiff is also entitled to the declaration that the cancellation of allotment of suit property communicated to plaintiff vide letter dated 07.07.2008 is bad in law and of no legal effect and therefore the allotment of suit property is still in continuance. Further a decree of permanent injunction is passed in favour of the plaintiffs and against the defendant no.1/DDA restraining defendant

no.1, its officials etc. from demolishing the property bearing No.WZ-665, Madipur, Main Rohtak Road, Punjabi Bagh, New Delhi till the actual and physical possession of suit property is given to plaintiff no.1. Further a decree of mandatory injunction is passed in favour of plaintiff declaring that plaintiff is entitled to possession of the suit property bearing no.B-5, measuring 50 sq. meters at Main Mangolpuri Industrial Area, Phase-I, Delhi. Cost of the suit awarded in favour of the plaintiff. Decree sheet be prepared accordingly. File be consigned to record room.”

3. Since the appellant/judgment debtor/DDA did not give possession of the suit plot to the respondents/decree holders, hence the subject execution proceedings came to be filed. In these execution proceedings the appellant/DDA stated that it would only hand over possession of the suit plot on the respondents/decree holders further paying an amount of Rs.1,59,861/- as detailed below:-

“(a) Interest on Premia upto 15.02.1996	Rs.5,137=00
(b) Ground Rent upto 14.01.2014	Rs.92,996=00
(c) Interest on ground rent upto 31.10.2013 (Expected Date)	Rs.61,728=00
Total	Rs.1,59,861=00”

4. The appellant/judgment debtor/DDA claimed that in terms of Sub-Clause II of Clause I of the Conveyance/lease the allottee was liable to pay ground rent and that although the judgment and decree dated 18.7.2012 did not direct payment of ground rent interest etc, yet, possession could only be given on payment of the

amount of Rs.1,59,861/- by the respondents/decreed holders to the appellant/DDA.

5. The objections of the appellant/judgment debtor/DDA were dismissed by the executing court vide its order dated 19.1.2015. By the order dated 19.1.2015 executing court held that the demand of Rs.1,54,724/- made by the appellant/DDA and this letter dated 7.11.2013 is arbitrary and cannot be recovered from the respondents/decreed holders. Executing court vide its order dated 19.1.2015, directed the appellant/judgment debtor/DDA to hand over possession of the suit property after payment only of interest on premium i.e Rs.5,137/- only. The appellant/DDA was dissatisfied with the order of the executing court dated 19.1.2015 and it filed an appeal, and which appeal has been dismissed by the appellate court in terms of its impugned judgment dated 31.3.2017. Hence this second appeal.

6. I have already stated above the angst of this Court with respect to bodies such as the appellant/DDA and which think that they are law unto themselves. It is high time that strict action be taken against certain officers of public bodies like DDA who are harassing

common/ordinary citizens of this country, and that too in spite of appellant/DDA having against it a judgment and decree dated 18.7.2012 which has become final. It is common sense that ground rent is paid for use, enjoyment and possession of the property, and surely therefore if possession was never with the allottee/decreed holders, there does not arise any claim of ground rent from the allottee. Obviously for extraordinary considerations officers of the appellant/DDA are making the respondents/decreed holders run from pillar to post to get benefit of the judgment and decree dated 18.7.2012 and which has become final.

7. Accordingly, it is seen that this appeal is a completely frivolous appeal. Appeal is therefore dismissed with costs of Rs.25000/-, to be deposited with the website www.bharatkeveer.gov.in and these costs of Rs.25000/- shall be recovered by the appellant from the salary of that highest placed employee of the appellant who has taken the decision to object to the grant of possession of the suit plot to the successful decreed holders without payment of the ground rent. The Vice Chairman of the appellant is also directed to set up an enquiry committee of three of its senior most officers to hold an

enquiry as to who are the employees of the appellant who are responsible for frivolously objecting to the grant of possession of the suit plot to the successful decree holders in terms of the judgment and decree dated 18.7.2012. As against the officers who are found culpable, appellant/DDA will initiate departmental enquiries against such officers, and strict action in accordance with law be taken against such officers. The Vice Chairman of the appellant is directed to ensure that the enquiry committee is constituted within three weeks from today and such enquiry committee will give its report positively within a period of three months from today to this Court. Before the next date of hearing the appellant will also ensure that necessary follow up action is taken in terms of the report of the enquiry committee.

8. Accordingly while this appeal is dismissed in terms of the aforesaid observations, list for compliance of the directions issued by the present judgment on 12th December, 2017.

SEPTEMBER 06, 2017
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VALMIKI J. MEHTA, J