60

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

% **Judgment delivered on: 31.01.2018**

\+ **LPA 481/2013 & CM Nos. 10532/2013, 10533/2013**

DHARAMBIR SINGH SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 482/2013 & CM Nos. 10535/2013, 10536/2013**

JAI CHAND AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 483/2013 & CM Nos. 10538/2013, 10539/2013**

PRITAM SINGH SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 484/2013 & CM Nos. 10541/2013, 10542/2013**

HARI CHAND SAINI & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 485/2013 & CM Nos. 10544/2013, 10545/2013**

RAKESH KUMAR SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 488/2013 & CM Nos. 10557/2013, 10558/2013**

RAJINDER SAINI AND ANR ..... Appellants

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By:AMULYA

8

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 489/2013 & CM Nos. 10560/2013, 10561/2013, 10562/2013**

MOOL CHAND AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 490/2013 & CM Nos. 10563/2013, 10564/2013**

JYOTI SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 491/2013 & CM Nos. 10566/2013, 10567/2013**

HARI CHAND SAINI & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 492/2013 & CM Nos. 10569/2013, 10570/2013**

KRISHAN KUMAR SHARMA & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 555/2013 & CM No. 11893/2013**

RAM PRATAP & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 558/2013 & CM Nos. 11897/2013, 11898/2013**

RAMU & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 559/2013 & CM Nos. 11919/2013, 11920/2013**

RAJESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 560/2013 & CM Nos. 11921/2013, 11922/2013**

OM PRAKASH & ANR ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 561/2013 & CM No. 11923/2013**

SANJAY AGGARWAL & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 132/2016 & CM Nos. 7344/2016, 7345/2016**

FAQIR CHAND (SINCE DECEASED) THR HIS LEGAL HEIR MUKESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 200/2015**

LILA RAM ..... Appellant

versus

ESTATE OFFICER -II DDA & ANR ..... Respondents

\+ **LPA 75/2017 & CM Nos. 3683/2017, 3684/2017**

RAMESH CHAND SAINI & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 668/2016 & CM Nos. 44900/2016, 44902/2016**

NATHU SINGH & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 4/2017 & CM Nos. 56/2017, 57/2017, 58/2017**

DINESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 669/2016 & CM Nos. 44910/2016, 44912/2016**

MAHESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **W.P.(C) 5041/2014 & CM Nos. 10061/2014, 10062/2014, 10063/2014**

RAJESH KUMAR & ANR ..... Petitioners

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **W.P.(C) 5790/2016**

CHHOTE LAL ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS...Respondents

+ **W.P.(C) 5805/2016**

TARA CHAND ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS

..... Respondents

+ **W.P.(C) 5806/2016**

NATHU RAM ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

+ **W.P.(C) 5808/2016**

KISHAN LAL ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

+ **LPA 2/2017 & CM Nos. 35/2017, 36/2017, 37/2017**

RAJ PAL .....Appellant

versus

DDA .....Respondent

+ **LPA 3/2017 & CM Nos. 53/2017, 54/2017, 55/2017**

BUDH RAM ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY .....Respondent

+ **LPA 5/2017 & CM Nos. 62/2017, 63/2017, 64/2017**

GIAS RAM & ORS ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 7/2017 & CM Nos. 69/2017, 70/2017, 71/2017**

LAXMI NARAYAN ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 8/2017 & CM Nos. 75/2017, 76/2017, 77/2017**

KAILASH CHAND ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 10/2017 & CM Nos. 81/2017, 82/2017, 83/2017**

SANJEEV CHAUHAN ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 11/2017 & CM Nos. 84/2017, 85/2017, 86/2017**

CHHATAR SINGH ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 12/2017 & CM Nos. 146/2017, 147/2017, 148/2017**

RAM SINGH SAINI & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 65/2017 & CM Nos. 3159/2017, 3161/2017, 3162/2017**

RAM BHOOLI ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 68/2017 & CM Nos. 3383/2017, 3385/2017, 3386/2017**

CHIDDA RAM ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 70/2017 & CM Nos. 3389/2017, 3391/2017, 3392/2017**

MOHAN LAL ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 71/2017 & CM Nos. 3393/2017, 3395/2017, 3396/2017**

JAIPAL SINGH DECEASED THR LR ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 72/2017 & CM Nos. 3397/2017, 3399/2017, 3400/2017**

DINESH CHAND ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 73/2017 & CM Nos. 3401/2017, 3403/2017, 3404/2017**

ANOOP SINGH ..... Appellant

versus

DDA ..... Respondent

Present:

Mr. Amit Kumar with Mr. Kumar Abhishek, Advocates for Appellant in LPA Nos. 481/2013, 482/2013, 483/2013, 484/2013, 485/2013,

67

488/2013, 489/2013, 490/2013, 491/2013, 492/2013, 132/2016, 668/2016, 669/2016, 2/2017, 3/2017, 4/2017, 5/2017, 7/2017, 8/2017, 10/2017, 11/2017, 12/2017, 65/2017, 68/2017, 70/2017, 71/2017, 72/2017, 73/2017, 75/2017 & WPC Nos. 5041/2014.

Mr S.N. Gupta, Adv. for appellants in LPA Nos. 555/2013, 558/2013, 559/2013, 560/2013 and 561/2013

Mr. A.K. Bhardwaj, Advocate along with Dheeraj Bhardwaj, Advocate for Appellant in LPA No.200/2015.

Mr. U.M. Tripathi, Advocate for Petitioner in WPC Nos. 5041/2014, 5790/2016, 5805/2016 & 5806/2016.

Ms. Shobhana Takiar, Advocate for respondent/DDA in LPA Nos.479/2013, 481/2013, 482/2013, 483/2013, 484/2013, 485/2013, 488/2013, 489/2013, 490/2013, 491/2013, 492/2013, 555/2013, 558/2013, 559/2013, 560/2013, 561/2013, 200/2015, 132/2016, 668/2016, 669/2016, 2/2017, 3/2017, 4/2017, 5/2017, 7/2017, 8/2017, 10/2017, 11/2017, 12/2017, 65/2017, 68/2017, 70/2017, 71/2017, 72/2017, 73/2017, 75/2017 & WPC Nos. 5041/2014, 5790/2016, 5805/2016, 5806/2016 & 5808/2016.

Mr. Dhanesh Relan with Ms. Isha Garg, Advocates for respondent/DDA in LPA Nos.200/2015, 132/2016., 668/2016, 669/2016, 2/2017, 4/2017, 5/2017, 7/2017, 8/2017, 68/2017, 72/2017 & 75/2017.

Mr. Sanjeev Sabharwal with Mr. Hem Kumar, Advocates for respondent/DDA in LPA No.668/2016.

Mr. Arun Birbal, Advocate for respondent/DDA in LPA Nos.2/2017, 5/2017, 7/2017, 8/2017, 10/2017, 12/2017, 65/2017 & 70/2017

Mr. Arjun Pant, Advocate for respondent/DDA in LPA Nos.4/2017 & 71/2017.

68

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

JUDGMENT

DEEPA SHARMA, J.

Dismissed.

For detailed order, see LPA No.479/2013.

Deepa Sharma

DEEPA SHARMA
(JUDGE)

VIPIN SANGHI
(JUDGE)

JANUARY 31, 2018
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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 31.01.2018

\+ **LPA 479/2013 & CM Nos. 10527/2013, 10528/2013, 20751/2013**

SUNIL KUMAR & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY THROUGH: VICE CHAIRMAN ..... Respondent

\+ **LPA 481/2013 & CM Nos. 10532/2013, 10533/2013**

DHARAMBIR SINGH SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 482/2013 & CM Nos. 10535/2013, 10536/2013**

JAI CHAND AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 483/2013 & CM Nos. 10538/2013, 10539/2013**

PRITAM SINGH SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 484/2013 & CM Nos. 10541/2013, 10542/2013**

HARI CHAND SAINI & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 485/2013 & CM Nos. 10544/2013, 10545/2013**

RAKESH KUMAR SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 488/2013 & CM Nos. 10557/2013, 10558/2013**

RAJINDER SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 489/2013 & CM Nos. 10560/2013, 10561/2013, 10562/2013**

MOOL CHAND AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 490/2013 & CM Nos. 10563/2013, 10564/2013**

JYOTI SAINI AND ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

LPA 491/2013 & CM Nos. 10566/2013, 10567/2013

HARI CHAND SAINI & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 492/2013 & CM Nos. 10569/2013, 10570/2013**

KRISHAN KUMAR SHARMA & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 555/2013 & CM No. 11893/2013**

RAM PRATAP & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 558/2013 & CM Nos. 11897/2013, 11898/2013**

RAMU & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 559/2013 & CM Nos. 11919/2013, 11920/2013**

RAJESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 560/2013 & CM Nos. 11921/2013, 11922/2013**

OM PRAKASH & ANR ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 561/2013 & CM No. 11923/2013**

SANJAY AGGARWAL & ANR. ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 132/2016 & CM Nos. 7344/2016, 7345/2016**

FAQIR CHAND (SINCE DECEASED) THR HIS LEGAL HEIR MUKESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

79

\+ **LPA 200/2015**

LILA RAM ..... Appellant

versus

ESTATE OFFICER -II DDA & ANR ..... Respondents

\+ **LPA 75/2017 & CM Nos. 3683/2017, 3684/2017**

RAMESH CHAND SAINI & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 668/2016 & CM Nos. 44900/2016, 44902/2016**

NATHU SINGH & ANR ..... Appellants

versus

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\+ **LPA 4/2017 & CM Nos. 56/2017, 57/2017, 58/2017**

DINESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 669/2016 & CM Nos. 44910/2016, 44912/2016**

MAHESH KUMAR & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **W.P.(C) 5041/2014 & CM Nos. 10061/2014, 10062/2014, 10063/2014**

RAJESH KUMAR & ANR ..... Petitioners

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **W.P.(C) 5790/2016**

CHHOTE LAL ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS...Respondents

\+ **W.P.(C) 5805/2016**

TARA CHAND ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS ..... Respondents

\+ **W.P.(C) 5806/2016**

NATHU RAM ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

\+ **W.P.(C) 5808/2016**

KISHAN LAL ..... Petitioner

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

(hereinafter referred to as Group 'A' cases)

\+ **LPA 2/2017 & CM Nos. 35/2017, 36/2017, 37/2017**

RAJ PAL ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 3/2017 & CM Nos. 53/2017, 54/2017, 55/2017**

74

BUDH RAM ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 5/2017 & CM Nos. 62/2017, 63/2017, 64/2017**

GIAS RAM & ORS ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 7/2017 & CM Nos. 69/2017, 70/2017, 71/2017**

LAXMI NARAYAN ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 8/2017 & CM Nos. 75/2017, 76/2017, 77/2017**

KAILASH CHAND ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

LPA 10/2017 & CM Nos. 81/2017, 82/2017, 83/2017

SANJEEV CHAUHAN ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 11/2017 & CM Nos. 84/2017, 85/2017, 86/2017**

CHHATAR SINGH ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 12/2017 & CM Nos. 146/2017, 147/2017, 148/2017**

75

RAM SINGH SAINI & ANR ..... Appellants

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 65/2017 & CM Nos. 3159/2017, 3161/2017, 3162/2017**

RAM BHOOLI ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 68/2017 & CM Nos. 3383/2017, 3385/2017, 3386/2017**

CHIDDA RAM ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 70/2017 & CM Nos. 3389/2017, 3391/2017, 3392/2017**

MOHAN LAL ..... Appellant

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\+ **LPA 71/2017 & CM Nos. 3393/2017, 3395/2017, 3396/2017**

JAIPAL SINGH DECEASED THR LR ..... Appellant

versus

DDA ..... Respondent

\+ **LPA 72/2017 & CM Nos. 3397/2017, 3399/2017, 3400/2017**

DINESH CHAND ..... Appellant

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

\+ **LPA 73/2017 & CM Nos. 3401/2017, 3403/2017, 3404/2017**

76

ANOOP SINGH ..... Appellant

versus

DDA ..... Respondent

(hereinafter referred to as 'Group 'B' cases)

Present:

Mr. Amit Kumar with Mr. Kumar Abhishek, Advocates for Appellant in LPA Nos. 479/2013, 481/2013, 482/2013, 483/2013, 484/2013, 485/2013, 488/2013, 489/2013, 490/2013, 491/2013, 492/2013, 132/2016, 668/2016, 669/2016, 2/2017, 3/2017, 4/2017, 5/2017, 7/2017, 8/2017, 10/2017, 11/2017, 12/2017, 65/2017, 68/2017, 70/2017, 71/2017, 72/2017, 73/2017, 75/2017 & WPC Nos. 5041/2014.

Mr S.N. Gupta, Adv. for appellants in LPA Nos. 555/2013, 558/2013, 559/2013, 560/2013 and 561/2013

Mr. A.K. Bhardwaj, Advocate along with Dheeraj Bhardwaj, Advocate for Appellant in LPA No.200/2015.

Mr. U.M. Tripathi, Advocate for Petitioner in WPC Nos. 5041/2014, 5790/2016, 5805/2016 & 5806/2016.

Ms. Shobhana Takiar, Advocate for respondent/DDA in LPA Nos.479/2013, 481/2013, 482/2013, 483/2013, 484/2013, 485/2013, 488/2013, 489/2013, 490/2013, 491/2013, 492/2013, 555/2013, 558/2013, 559/2013, 560/2013, 561/2013, 200/2015, 132/2016, 668/2016, 669/2016, 2/2017, 3/2017, 4/2017, 5/2017, 7/2017, 8/2017, 10/2017, 11/2017, 12/2017, 65/2017, 68/2017, 70/2017, 71/2017, 72/2017, 73/2017, 75/2017 & WPC Nos. 5041/2014, 5790/2016, 5805/2016, 5806/2016 & 5808/2016.

Mr. Dhanesh Relan with Ms. Isha Garg, Advocates for respondent/DDA in LPA Nos.200/2015, 132/2016., 668/2016,

77

669/2016, 2/2017, 4/2017, 5/2017, 7/2017, 8/2017, 68/2017, 72/2017 & 75/2017.

Mr. Sanjeev Sabharwal with Mr. Hem Kumar, Advocates for respondent/DDA in LPA No.668/2016.

Mr. Arun Birbal, Advocate for respondent/DDA in LPA Nos.2/2017, 5/2017, 7/2017, 8/2017, 10/2017, 12/2017, 65/2017 & 70/2017

Mr. Arjun Pant, Advocate for respondent/DDA in LPA Nos.4/2017 & 71/2017.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

JUDGMENT

DEEPA SHARMA, J.

1. We propose to dispose of these 36 appeals and 5 writ petitions vide this common order since in all these matters, the issues raised are identical.

2. The lands in dispute were leased out to two different Societies, namely, Jheel Khuranja Cooperative Milk Producers Society Limited and Delhi Peasants Cooperative Multipurpose Society Limited. All the matters relating to land allotted to Jheel Khuranja Cooperative Milk Producers Society Limited are grouped in Group 'A' and the matters relating to land allotted to Delhi Peasants Cooperative Multipurpose Society Limited are grouped in Group 'B'.

Brief facts in Group 'A' Matters

3. An Agreement was executed by the Government of India in favour of the Delhi Improvement Trust (hereinafter referred to as "the DIT") on 31.03.1937 with regard to administration of certain properties, which were

placed at the disposal of DIT, and was termed as the Nazul Estate. On 14.03.1950, Government of India, Ministry of Rehabilitation conveyed its decision to the effect that all the plots in Jhil Khuranjia, which were previously occupied by Muslim Ghosis and which were then lying vacant or were unauthorisedly occupied, would be allotted by the DIT to the Jhil Khuranjia Milk Producers Co-operative Society Ltd., for being allotted to the displaced persons who are milk producers and who had enrolled themselves as Members of the Society and those who agree to abide by the conditions specified in the said communication. The terms of allotments of plots to the Jhil Khuranjia Milk Producers Co-operative Society, inter alia, provided that the plots would be given only for a lease for a period of 90 years. The Society had to pay to DIT an existent rent of Rs. 2/- per annum, subject to the enhancement. It also provided that the period of lease for all Nazul 'grazing land' under the trust be leased for grazing & fodder; the first instance would be 5 years with an option to the Society to renew the lease for a further period of 10 years each.

4. Subsequently, on 22.03.1950, the DIT was called upon to take immediate necessary action with regard to allotment of all vacant plots of land in Jhil Khuranjia to the Jhil Khuranjia Milk Producers Co-operative Society Ltd. on the terms and conditions contained in letter dated 14.03.1950. Request was also made to lease out Nazul grazing land under the Trust (DIT) in and near Jhil Khuranjia, including, land belonging to U.P. Canal Department so long as its management is with DIT.

5. The DIT passed the resolution on the subject of "Allotment of Land in Jhil Khuranjia to Jhil Khuranjia Milk Producers Co-operative Society Ltd."

on 25.05.1950. This resolution contained the terms of allotment as were contained in Government Notification dated 14.03.1950.

6. The Nazul land measuring 7938 Bigha 12 Biswa in Jheel Khuranja and Chiragaha South was given on lease to Jheel Khuranja Cooperative Milk Producers Society Limited by the DIT vide Resolution No.103 dated 25.05.1950. Land measuring 2660 Bigha 14 Biswa belonging to U.P. Irrigation Department, was also allotted to the Society. On 20.04.1962, possession of 2660 Bigha 14 Biswa was surrendered to the U.P. Irrigation Department and, thereafter, only an area of a land comprising of 4380 Bigha remained with the Society. This land was leased out to the Society for its members, including the appellants and the writ petitioners. After the Delhi Development Act, 1957 (hereinafter referred to as "the DD Act") came into force, the land under the management of the DIT came to vest in the Delhi Development Authority (hereinafter referred to as "the DDA") by virtue of Section 60(2)(d) of the DD Act and by virtue of Section 22 of the DD Act, the Nazul lands, which were property of the Central Government, were placed at the disposal of DDA for the purpose of development. DDA issued two letters on 16.10.1967 to the Society, for handover the possession of the land and also to deposit the arrears of land revenue amounting to Rs.2,71,957.48. The Society filed a Suit No.326/1970 for declaration, mandatory and perpetual injunction thereby seeking declaration that termination of the lease was illegal, and also seeking injunction to restrain the DDA from evicting it and claim arrears of rent. On 24.05.1971, the Society gave up its relief of declaration and confined itself to the relief of injunction. The suit was dismissed on the ground that the suit for injunction

80

alone was not maintainable after the relief for declaration was abandoned, since the relief for injunction had emanated from the relief of declaration. Against this order, the Society preferred an appeal which was registered as RFA No.250/1971. During the hearing of the appeal, the DDA on 26.07.1977 gave an undertaking to the Court that it would not dispossess the Society, except under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the PP Act'). This undertaking was accepted by the Society and the appeal was disposed of on those terms.

7. Thereafter, DDA proceeded to take action under the PP Act against the Society. Notices under Sections 4 and 7 of the PP Act in the year 1983-84 were issued to the Society for vacation of the land. However, the proceedings were dropped by DDA against the Society, when informed that the Society was not in possession of the land.

8. Thereafter, notices under Section 4 of the PP Act were issued to various occupants of the land. The Estate Officer issued the show-cause notices to the occupants. The eviction orders were passed. The said eviction orders dated 29.01.2002 were challenged before this Court in CWP No.3364/2002 and the Court vide order dated 19.11.2004 directed the DDA to implead the Society as a party to the eviction proceedings. After impleadment of the Society, the Estate Officer passed the eviction orders dated 01.08.2007 against the Society. It was challenged by way of an appeal before the District and Sessions Judge. The learned District and Sessions Judge vide order dated 01.09.2009 set aside the order passed by the Estate

Officer on the ground that the description of land was not mentioned in the order.

9. The Estate Officers thereafter again passed the eviction orders dated 17.12.2012, 07.01.2013, 28.01.2013, 17.01.2013, 18.12.2012, 14.01.2013 in all the cases subject matter of the above Letter Patent Appeals (LPA's) of Group 'A'. The said orders were upheld by the District and Sessions Judge on 23.02.2013, 07.03.2013, 23.03.2013 and 25.02.2013. These orders were challenged before the learned Single Judge in the writ petitions bearing W.P.(C) 1959/2013, W.P.(C) 1928/2013. W.P.(C) 2518/2013, W.P.(C) 1969/2013, W.P.(C) 1945/2013, W.P.(C) 2517/2013, W.P.(C) 2516/2013. W.P.(C) 1979/2013, W.P.(C) 1948/2013, W.P.(C) 2519/2013, W.P.(C) 3015/2013, W.P.(C) 2792/2013, W.P.(C) 2953/2013, W.P.(C) 2965/2013, W.P.(C) 3577/2013, W.P.(C) 8665/2014, W.P.(C)1598/2016, W.P.(C) 1637/2016, W.P.(C)1597/2016 and W.P.(C) 1758/2016. All the writ petitions were dismissed by the learned Single Judge by a common orders dated 24.05.2013, 26.02.2016 and 29.02.2016. The said orders are impugned before us in these LPA's. In the writ petition bearing W.P.(C) 5041/2014, the order of District Judge dated 07.03.2013, whereby the learned District Judge has upheld the order of the Estate Officer, is under challenge. In W.P.(C) 5790/2016, W.P.(C) 5805/2016, W.P.(C) 5806/2016 and W.P.(C) 5808/2016, the writ petitioners have directly come before this Court against the order of Estate Officer dated 17.01.2013, without availing of their right to appeal before the District Judge under Section 9 of the PP Act.

89

Brief Facts in Group 'B' Cases

10. In Group 'B' category of cases, the Government land in dispute was allotted to Delhi Peasants Cooperative Multipurpose Society Limited by the DIT.

11. The brief common facts as disclosed by the appellants in these cases that in 1949, the Society was allotted agricultural land measuring 13,344 bighas in village Patparganj Shamspur, Jatwara Kalan South, Gaonwala, Mohammad Khan Wala, Jhilnmil Tahirpur South, Jhilmil Tahipur North and Murgi Khana (hereinafter referred to as "the land"), on leasehold basis for a period of 5 years by the DIT vide the lease executed between the Society and the DIT. The Society allotted the said land to its members for cultivation. The lease was extended in the year 1956 and again in 1961. In respect of certain bighas of land, DDA – who is the successor of DIT, sought cancellation of the lease deed on 06.10.1967 and 31.07.1967, and asked the Society to handover the possession of the land. Thereafter, a solution No.6 dated 30.04.1973 was passed by the DDA, whereby it proposed to execute the lease deeds in favour of individual cultivators. The Society was asked to clear its arrears and a demand letter to this effect was issued. Thereafter, the Society alleges to have cleared all the arrears. Notices under the PP Act were issued by the Estate Officer to the individual cultivators and the eviction orders were passed in the year 1991-1992. The orders were challenged in appeal before the District Judge. The matters were remanded back to the Estate Officer. The eviction proceedings were again started by the DDA in the year 2004, and eviction orders were passed on 01.08.2007 for vacation of the land. This order was challenged before the

Appellate Court of District Judge. The matter was again remanded back to the Estate Officer. The final orders were passed by the Estate Officer on 31.01.2014, 03.02.2014, 06.02.2014, 07.02.2014, 18.02.2014, 03.04.2014, 24.03.2014, 04.04.2014 and 24.06.2014 respectively. Those orders were challenged before the District Judge. The appeals were dismissed on 01.04.2014, 31.03.2014, 04.07.2014, 15.09.2014, 16.09.2014, 07.10.2014 and 14.10.2014. These orders of the District Judge were challenged before the learned Single Judge of this Court in W.P.(C) Nos.8307/2016, 9059/2016, 9063/2016, 9064/2016, 9065/2016, 9085/2016, 9086/2016, 9087/2016, 9105/2016, 9110/2016, 9111/2016, 9113/2016, 9117/2016, 9118/2016, 9119/2016, 9121/2016, 9122/2016, 9137/2016, 9139/2016, 9140/2016, 9143/2016. Vide common impugned order dated 21.10.2016, all the writ petitions were dismissed by the learned Single Judge. This impugned order has been challenged by the appellants before us on various grounds.

12. Both the parties have argued the matter at length and have also submitted their written submissions.

13. Learned Counsels in Group 'A' and Group 'B' cases have confined their challenge to the impugned orders on two legal grounds and have not disputed the findings of fact returned by the Estate Officer, which were confirmed by the District Judge on their appeal, and subsequently by the learned Single Judge in the writ petitions. The first ground raised is that the learned Single Judges have failed to appreciate that appellants and the writ petitioners are the tenants in respect of the portions of the lands in their occupation and possession and, secondly, that the DDA cannot evict them

under the PP Act which is applicable only to the unauthorized occupants, and they being tenants cannot be evicted under the PP Act which makes the order of the Estate Officer void, having been passed without any authority and jurisdiction.

14. It is argued that in ***Dr. Suhas H. Pophale vs. Oriental Insurance Co. Ltd and its Estate Officer,*** *2014 (2) SCALE 223*, the Supreme Court has clearly held that the occupants of public premises, who are in occupation prior to 16.09.1958, i.e. prior to the PP Act coming into force are not governed by the PP Act, since the Act has no retrospective effect. The Supreme Court has further held that the right available to the appellants under a State Statute before 16.09.1958 (the date on which the PP Act was enforced) does not get extinguished on passing of the PP Act. Such persons cannot be evicted under the PP Act. It is argued that at the time when lease was executed by the DIT, the provisions of Punjab Tenancy Act, 1887 and Punjab Tenants (Security of Tenure) Act, 1950 were applicable to the lands in Delhi by virtue of Delhi Laws Act, 1912, as amended in 1915. It is argued that as per Section 4(5) of the Punjab Tenancy Act, 1887 and Punjab Tenants (Security of Tenure) Act, 1950, they are the tenants under those Acts and can be evicted only in terms of the said Acts and not under the PP Act. Reliance is placed on paras 59 and 64 of ***Dr. Shuhas H. Pophale*** (supra), which are reproduced as under:-

> *"59..... All those persons falling within the definition of a tenant occupying the premises prior thereto will not come under the ambit of the Public Premises Act and cannot therefore, be said to be persons in "unauthorized occupation". Whatever rights such prior tenants, members of their families or heirs of*

such tenants or deemed tenants or all of those who fall within the definition of a tenant under the Bombay Rent Act have, are continued under the Maharashtra Rent Control Act, 1999. If possession of their premises is required, that will have to be resorted to by taking steps under the Bombay Rent Act or Maharashtra Rent Control Act, 1999 If person concerned has come in occupation subsequent to such date, then of course the Public Premises Act, 1971 will apply.

64. As far as the eviction of unauthorised occupants from public premises is concerned, undoubtedly it is covered under the Public Premises Act, but it is so covered from 16-9-1958, or from the later date when the premises concerned become public premises by virtue of the premises concerned vesting into a government company or a corporation like LIC or the nationalised banks or the general insurance companies like Respondent. Thus there are two categories of occupants of these public corporations who get excluded from the coverage of the Act itself. Firstly, those who are in occupation since prior to 16-9-1958 i.e. prior to the Act becoming applicable, are clearly outside the coverage of the Act. Secondly, those who come in occupation, thereafter, but prior to the date of the premises concerned belonging to a government corporation or a company, and are covered under a protective provision of the State Rent Act, like the appellant herein, also get excluded. Until such date, the Bombay Rent Act and its successor Maharashtra Rent Control Act will continue to govern the relationship between the occupants of such premises on the one hand, and such government companies and corporations on the other. Hence, with respect to such occupants it will not be open to such companies or corporations to issue notices, and to proceed against such occupants under the Public Premises Act, and such proceedings will be void and illegal. Similarly, it will be open for such occupants of these premises to seek declaration of their status, and other rights such as transmission of the tenancy to the legal heirs, etc. under the Bombay Rent Act or its successor Maharashtra Rent Control Act, and also to seek protective reliefs in the nature of injunctions against unjustified actions or orders of eviction if so

passed, by approaching the forum provided under the State Act which alone will have the jurisdiction to entertain such proceedings."

15. It is further argued that in ***Rama Nand vs. State of Haryana,*** *AIR 1982, P&H 26,* the Division Bench of Punjab and Haryana High Court has also clearly held that the rights of a tenant created under Punjab Tenancy Act, 1887 and Punjab Tenants (Security of Tenure) Act, 1950 do not get extinguished on passing of Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959, the provisions of which are *pari materia* with the PP Act. It is argued that the same principle applies here, and the DDA could not have sought eviction under the PP Act and eviction orders are thus nullity. It is submitted that the same principles have been reiterated by the Supreme Court in ***M/s Band Box Private Limited vs. Estate Officer, Punjab and Sindh Bank,*** *2014 (16) SCC 321.*

16. Relying on the decision of the Supreme Court in the case of ***Dr. Jagmittar Sain Bhagat and Ors. v. Dir. Health Services, Haryana and Ors.,*** *2013 10 (SCC)136,* particularly with reference to para 9 and 10 of the said judgment, it is argued that once it is found that the forum which had passed an order had no jurisdiction, the decision becomes irrelevant and unenforceable/in-executable. It is further argued that a legal plea challenging the jurisdiction of the authority to pass an order, can be raised at any stage and the learned Single Judges have erred in holding that the plea regarding non-applicability of the PP Act cannot be taken at a later stage. It is further argued that since the appellants and writ petitioners are challenging the applicability of the PP Act and, thus, challenging the jurisdiction and authority of the Estate Officer to pass eviction orders under the PP Act,

which purely a legal issue, the same could be raised at any stage. It is argued that in the case of ***Cantonment Board and Anr. vs. Church of North India,*** *(2012) 12 SCC 573*, the Supreme Court has clearly held that the lack of inherent jurisdiction is basic and fundamental, and the validity of an order can be challenged at any stage on the ground of lack of inherent jurisdiction, even in execution or collateral proceedings. It is argued that the eviction orders being void-having been passed by an authority who had no jurisdiction over the matter, are liable to be set aside.

17. On the other hand, the learned counsel for the respondent/DDA submits that the PP Act deals with the eviction of unauthorized occupants from the properties belonging to the government. The claim of the appellants/writ petitioners that they are protected under the Punjab Acts is highly misplaced. The appellants and writ petitioners are not protected under any State Laws on expiry of leases by efflux of time. On expiry of the said leases, the appellants and writ petitioners remained neither statutory, nor contractual tenants, thus, became unauthorized occupants.

18. Learned counsel submits that the Punjab Tenancy Act, 1887 has no application to the present case. The land in dispute – occupied by the appellants and writ petitioners is not governed by these Acts. The Punjab Tenancy Act, 1887, applies to the Union Territory of Delhi as described in Schedule A of the Delhi Laws Act, 1912. As per this Schedule, the Union Territory of Delhi comprises that portion of the District of Delhi, comprising the *Tehsil* of Delhi and the Police Station of Mehrauli. Further, vide Schedule – I of the Delhi Laws Act, 1915, 65 territories were included in the Union Territory of Delhi. Learned counsel for the DDA draws our attention

to the aspect that the land in question falls in the Nazul estate as described in the Nazul Agreement, and is not part of the 65 villages as described in Schedule – I of the Delhi Laws Act, 1915. Thus, the Punjab Tenancy Act, 1887, does not apply to the Nazul estate. Learned counsel further submits that Section 4(5)(d) of the Act defines a tenant as "*a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include:- ..... (d) a person who takes from the [Government] a lease of unoccupied land for the purpose of subletting it*". Thus, in light of the said provision, the appellants and writ petitioners do not stand as tenants under the Punjab Tenancy Act, 1887.

19. Learned counsel for the DDA further draws our attention to Section 3 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 wherein *"Un-authorised occupation of public premises"* has been explained as under:

> *"For the purposes of this Act - A person shall be deemed to be in unauthorized occupation of any public premises.*
>
> *(a) where he has whether before or after the commencement of this Act entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant;"*
>
> ***(b) where he, being an allottee, lease or grantee, has, by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such public premises.***

(c) where any person authorised to occupy any public premises has, whether before or after the commencement of this Act—

(i) sublet in contravention of the terms of allotment, lease or grant, without the permission of the State Government or of any other authority competent to permit such sub-letting the whole or any part of such public premises;

(ii) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such public premises.

Explanation : For purposes of Clause (a), a person shall not merely by reason of the fact that he has paid any rent be deemed to have entered into possession as allottee, lessee or grantee."

20. By virtue of Article 254(1) of the Constitution of the India, 1950, the law made by Parliament on a subject prevails over the State laws. Thus, the PP Act would override any other state enactment made in respect of the lands of the Union of India. Thus, the appellants and writ petitioners are unauthorized occupants within the meaning of section 2(g) of the PP Act on the said Union government land since 1965 i.e. since the expiry of the lease.

21. Learned counsel submits that ***Ashoka Marketing Ltd. & Anr. v. Punjab National Bank & Ors.,*** *AIR 1991 SC 855,* holds that when a premises falls within the ambit of both - the PP Act and the Delhi Rent Control Act (hereinafter referred to as DRC Act), the PP Act shall have overriding effect vis-à-vis the DRC Act. Thus, learned counsel submits that a person inducted as a tenant in respect of a public premise, whose tenancy has expired, cannot invoke the protection of the State enactments viz. the Punjab Tenancy Act, 1887 and the Punjab Tenants Act, 1950. The PP Act

overrides the State Acts in relation to premises falling within the ambit of both the enactments.

22. Learned counsel further submits that the plea that the appellants and the writ petitioners are the tenants under the Punjab Acts was not taken at any stage, and no evidence has been adduced by the appellants and writ petitioners to prove that the land in their occupation was governed by the Punjab Acts. The said issue is a mixed question of fact and law, and cannot be raised for the first time at this stage. The submission that the appellants/ petitioners were tenants under the Punjab Acts is thus a fallacy.

23. Learned counsel for the DDA submits that the decision in ***Dr. Suhas H. Pophale*** *(supra)* is not applicable to the facts of this case, since the facts in that case were entirely different. In ***Dr. Suhas H. Pophale*** *(supra)*, the property in dispute was a private property on which the Bombay Rent Act, 1947 was applicable. There was a valid tenancy within the meaning of Bombay Rent Act, 1947, until the premises in question were converted into public premises within the meaning of Section 2(e) of the PP Act-which was done by way of a merger. In this case, one Mr Eric Voller was a tenant of Indian Mercantile Insurance Company. Mr Eric Voller executed a licensed agreement in favour of the appellant therein, for a period of two years, and put him in exclusive possession of the property concerned. The erstwhile insurance company did not object to the said act and accepted the appellant as a tenant for residential purposes and started accepting the rent directly from the appellant. Subsequently, the said insurance company was merged on 01.01.1974 in the Oriental Insurance Company-which is a Government Company. The management of the Company was taken over by the Central

Government w.e.f. 13.05.1971 pending its nationalization. On these facts, the Court had protected the rights of the tenant under the Bombay Rent Act, and the Apex Court held that the rights created under the State enactments cannot be destroyed by giving retrospective effect to the provisions of the PP Act. However, in the present case, the disputed property has always been the property of the Central Government. Thus, this decision is not applicable to the facts of the present case.

24. It is further submitted that in RFA No.250/1971, the DDA had made a categorical statement that the appellants would not be dispossessed, except under the provisions of the PP Act, 1971 and in view of the said undertaking given by the DDA, the appellants did not press their appeal which was then disposed of in those terms. By corollary, the appellants and writ petitioners had accepted that they could be dispossessed under the provisions of the PP Act and, that is why, they had never raised this plea, and for the first time in the present appeals, the appellants and writ petitioners are taking the plea that they cannot be evicted under the PP Act. It is further argued that in an earlier writ petition No.3797/1991, entitled as ***Smt. Dhan Kaur vs. DDA***, wherein the Jheel Khuranja Cooperative Milk Producers Society Limited was respondent No.2 and the petition was filed by members of the Society, the Court had negated the contention of Smt. Dhan Kaur that she had come to use and occupy the land through the said Society, and had a right to continue to occupy the same – being lessee of the Society, and it was held that the Society did not have any subsisting right, title or interest and anyone claiming through the Society cannot legally continue to be in use and occupation, and they were rank trespassers and encroachers.

25. It is further argued that in the Group 'B' cases, the appeal filed against the eviction orders passed in respect of certain persons occupying the land allotted to Delhi Peasants Cooperative Multipurpose Society Limited, was dismissed *in limine* by a Division Bench of this Court vide order dated 17.11.2015 in the case titled as ***Brij Pal & Ors. vs. DDA***, *LPA No. 810/2015.* It is submitted that these findings are binding on this Court on the principle of constructive *res judicata,* since they are relating to the same lease agreements, with the same Societies, through whom the appellants and the petitioner in those two cases were claiming their rights, and through whom the appellants and the writ petitioners before this Court are claiming their rights.

26. It is further argued that the learned Single Judges have rightly dismissed the writ petitions of the appellants, whereby they had challenged the order of the District Court passed in appellate jurisdiction. A Writ Court certainly does not sit as an Appellate Court, and exercises a limited jurisdiction of judicial review while assessing the order of a Court below. Reliance is placed on ***Rohtash Kumar v. DDA & Ors,*** *2003 VI AD (Delhi) 245*, in this regard.

27. It is argued that the present appeals and writ petitions have no merit, and the impugned orders do not suffer from any illegality and the same are liable to be dismissed. It is further submitted that the writ petitions – which have been filed against the order of the Estate Officer, without first availing the alternate remedy of filing an appeal, are also liable to the dismissed on these grounds as well.

97

28. We have given our thoughtful consideration to the rival contentions and have perused the record and considered the decisions relied upon by the learned counsels.

29. As aforesaid, learned counsels for the appellants and the writ petitioners have confined their arguments only on two legal issues; firstly that the appellants and writ petitioners were tenants since the inception of the lease granted to the Societies by the DIT under the provisions of Punjab Tenancy Act, 1887 and Punjab Tenants (Security of Tenure) Act, 1950, which were applicable to the territories of Delhi, and hence their rights are protected under these Acts and they cannot be evicted under the PP Act. Secondly, the PP Act has no retrospective application.

30. The admitted and undisputed facts are that the leases were created in favour of the Societies for its members and, therefore, the appellants and writ petitioners can claim their right of occupation in respect of the land in their possession and occupation, only through the Societies and. therefore, the appellants and writ petitioners in Group 'A' cases are bound by the order of this Court in RFA No.250/1971 which was disposed of by this Court in terms of undertaking of DDA to take action only as per the provisions of the PP Act. It is pertinent that the Society agreed to the undertaking of DDA and did not press its appeal. It cannot now turn around and challenge the action of DDA under the PP Act while earlier they did not oppose the undertaking of DDA to resort to the provisions of the PP Act for getting them evicted from the land in their occupation. Alternatively, since the appellants/ writ petitioners withdrew their RFA, and the original judgment was against them,

they are bound by the same. However, since the appellants and writ petitioners have raised this plea, we propose to deal with it on merits as well.

31. It is an undisputed fact that the land in dispute was Government land when leased out to the Societies. The appellants and writ petitioners have relied on Section 4(5) of Punjab Tenancy Act, 1887 and argued that the said Act applies to Government land as well. The relevant Section reads as under:-

> *"4. Definition - In this Act, unless there is something repugnant in the subject or context-*
>
> *(1) XXX XXX XXX*
>
> *(2) XXX XXX XXX*
>
> *(3) XXX XXX XXX*
>
> *(4) XXX XXX XXX*
>
> *(5) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include-*
>
> *(a) XXX XXX XXX*
>
> *(b) XXX XXX XXX*
>
> *(c) XXX XXX XXX*
>
> *(d) a person who takes from the [2][Government] a lease of unoccupied land for the purpose of subletting it";* (emphasis supplied)

32. From reading the provision of Section 4(5)(d) of the Punjab Tenancy Act, it is apparent that this Act is not applicable to the leases executed by the Government relating to Government unoccupied lands, where the same has been allotted for the purpose of sub-letting it. It is an undisputed fact that the land in dispute was unoccupied land, leased out to the Societies for use of its members and the Societies were precluded from sub-letting it.

33. Punjab Tenancy Act, 1887 applies to that part of the Union Territory of Delhi which has been specified in Schedule-A of Delhi Laws Act, 1912 which were *Tehsil* of Delhi and police station of Mehrauli and subsequently 65 more villages were added to this list. No evidence is produced to show that lands in question formed part of the *Tehsil* of Delhi, or was part of police station of Mehrauli, or were part of 65 villages which were subsequently added to the list in Schedule-I by a proclamation issued in 1915. During arguments also our attention was not drawn by the appellants and the writ petitioners to any document to show that lands in question, which was property of Union Government, was brought into the ambit of provisions of Punjab Tenancy Act, 1887 and Punjab Tenants (Security of Tenure) Act, 1950. The operation of this Act was extended to that part of land of the Union Territory of Delhi which is mentioned in Schedule-A of the Delhi Laws Act, 1912. Therefore, it is apparent that only the land which was part of Schedule-A, was governed by the provisions of Punjab Tenancy Act, 1887 and Punjab Tenants (Security of Tenure) Act, 1950. The appellants and writ petitioners have failed to establish the fact that the provisions of Punjab Tenancy Act, 1887 was extended to the land in dispute, which indisputably belongs to Government of India. The said issue being a mixed question of fact and law could, and should have been agitated at the

original stage of the proceedings, which the appellants/ writ petitioners failed to do. It is too late in the day for them to raise the same at this stage, and they cannot be permitted to do so. The factual groundwork has not been laid by the appellants/petitioners for them to urge that the lands in question are covered by the aforesaid Punjab Act.

34. Turning to the applicability of the Punjab Tenants (Security of Tenure) Act, 1950 (referred to as Punjab Tenants (ST) Act), we find that even the said Act has no relevance to the present case. As per Section 1(3) of the Punjab Tenants (ST) Act, it applies to "*entire land held in Delhi by a landowner except –*

(i) the land held by an occupancy tenant;

(ii) the land reserved under the provisions of this Act; or

(iii) if such land, excluding the land held by an occupancy tenant, in aggregate area, does not exceed the permissible limit".

35. The expression "landowner" as defined in Section 2(1) of Punjab Tenants (ST) Act "*means a person defined as such in the Punjab Land Revenue Act, 1887, as applicable to Delhi.*" The Punjab Land Revenue Act defines "*landowner*" in Section 3(2) as:

> *"landowner does not include a tenant or an assignee of land revenue, but does not include a person to whom a holding has been transferred or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land revenue or a sum recoverable as such an arrear and every other person not herein before this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate."*

36. Since the subject land belonging to the Government was leased out to Societies indisputably, the Societies as per the said definition cannot be termed as land owners of the subject property and the appellants and the writ petitioners cannot be termed as tenants under Punjab Tenants (ST) Act.

37. A perusal of the Punjab Land Revenue Act shows that the same is a legislation which primarily seeks to provide for the making and maintenance of record-of-rights in land, the assessment and collection of land revenue and other matters relating to land and the liabilities incident thereto.

38. Section 48 of the Punjab Land Revenue Act, 1887 is the charging provision in respect of land revenue. The same provides that:

> *"All land, to whatever purpose applied and wherever situate is liable to the payment of land-revenue of the Government except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force and such land as is included in the village site.*
>
> *Explanation—For the purposes of this sub-section the expression 'Village site' shall have the same meaning as is assigned to the expression 'site of a village' in section 4.*
>
> *(1-A) Notwithstanding anything in sub-section (1) land held by any person weather as a sole landowner or as a co-landowner in one or more holdings, or as a sole landowner and as a co-landowner in one or more holdings in any estate shall be exempted from the liability to the payment of land revenue, if-- ... ..."*

39. Land revenue is payable to the Government. It is payable by a land owner. There would be no question of the Government paying land revenue on its own land, to itself. Section 48 and other provisions of the Act leave

no manner of doubt that the Government cannot be considered as a land owner for the purposes of the Punjab Land Revenue Act, 1887. Consequently, the Government cannot be considered as a land owner for the purposes of the Punjab Tenants Act. Pertinently, the definition of the "land owner" contained in the Punjab Land Revenue Act excludes a tenant. The appellants/ writ petitioners, at the highest, are claiming themselves to be ants since, admittedly, they are not the land owners. Thus, even otherwise, they cannot be treated as land owners within the definition of the said expression contained in Section 3(2) of the Punjab Land Revenue Act. It is not even the case of the appellants/ writ petitioners that they were either subjected to land revenue or that they every paid any land revenue. Thus, the submission of the appellants/ writ petitioners that they are covered by the Punjab Tenants (ST) Act has absolutely no merit. It is also pertinent to note that the protection granted in respect of the tenancies covered by Section 5 of the Punjab Tenants (ST) Act is not available to a tenant, who fails to pay rent regularly without sufficient cause. As aforesaid, no material has been ced on record by the appellants/ writ petitioners to show as to what was the rent that they were obliged to pay as tenants; whether they paid the same, and; if so, when and how much. Thus, reliance placed by the appellants/ writ petitioners on the Punjab Tenants (ST) Act is misplaced and rejected.

40. The argument of the appellants and writ petitioners, that since the Societies had sub-leased the property to its members, therefore, they were the tenants of the Societies and their tenancy rights were protected under the State law governing the tenancy rights, has no merit. From the facts on record, it is apparent that the land was allotted to the Societies for its

members. If the rights of the Societies in question were not protected by the said two Punjab Acts, the sub-lessees thereunder could obviously not claim a higher or greater protection. The appellants/ writ petitioners derived their rights only from the two Societies, and thus, their rights are subject to the limitations which bound the said Societies. Pertinently, the appellants and writ petitioners have even failed to produce any evidences on record at the appropriate forum to prove that they were paying rent to the Societies, or that they were the tenants of the Societies. Our attention is not drawn to any document which was proved on record to sustain their contention that individual tenancy rights were created in favour of the appellants and writ petitioners by the DDA. The appellants and writ petitioners have failed in their attempt to prove that they were tenants on the land in question.

41. Even the State law which protects the rights of the tenants, i.e., the DRC Act does not give protection to them, since it too excludes government properties, and does not, in any event, apply to open land.

42. Section 3(a) of the DRC Act, 1958 which came into force with effect from 09.02.1959 exempts from its operation the premises belonging to the Government. The same is reproduced as under:-

> *"3. Act not to apply to certain premises.--Nothing in this Act shall apply—*
>
> *(a) to any premises belonging to the Government*
>
> *(b) to (d) XXX XXX XXX"*

43. Although the appellants and the writ petitioners have failed to establish their contention that they were the tenants, it is argued that in the

case of ***Dr. Suhas H. Pophale*** *(supra)*, the Supreme Court has held that the tenancy rights of a person protected under the State Law before the PP Act was passed by the Parliament, do not get extinguished on passing of the PP Act. It is also the argument of the appellants and writ petitioners that since they were tenants, and not unauthorized occupants on 16.09.1958 when Parliament enforced the PP Act, their rights as tenants do not get extinguished and any action by the DDA under the said Act is illegal and without jurisdiction.

44. Learned counsel for the DDA has countered the submission of the appellants/ writ petitioners by placing reliance on ***Ashoka Marketing*** *(supra)*, wherein it has been held that in respect of Government properties, the DRC Act has no application and the PP Act has overriding effect.

45. After DD Act came into force on 30.12.1957, all the properties belonging to DIT, by virtue of Section 60 of DD Act, came to vest and governed by the DDA. Therefore, in the year 1957 when the DD Act came into force, the lands in question came to vest in DDA and the property continued to be the Government property. As aforesaid, Section 3(a) of DRC Act clearly exempts from the operation of DRC Act any property belonging to the Government.

46. Section 2(e) of the PP Act defines the 'public premises' which reads as under:-

> *"2. Definitions.—In this Act, unless the context otherwise requires—*
>
> *(e) "public premises" means—*

(6)

(1) XXX XXX XXX

(2) XXX XXX XXX

(3) in relation to the [National Capital Territory of Delhi],—

(i) XXX XXX XXX

(ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority;"

47. Admittedly, the land in question was Government property from the very beginning i.e. even at the time when the lease was created. The PP Act became operative with effect from 16.09.1958. It empowers the owner of the "public premises" to get the "unauthorized occupants" of the public premises evicted through the special mechanism devised under the PP Act. Section 2(g) of the PP Act defines *"unauthorized occupation"* as under:-

"2(g) "unauthorised occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

48. On determination of the lease of a Government property, all of those who are occupying it become unauthorized occupants. The Supreme Court in ***Ashoka Marketing*** *(supra)*, explained the meaning of unauthorized occupation used in PP Act and held as under:-

"30. The definition of the expression 'unauthorised occupation' contained in Section 2(g) of the Public Premises Act is in two

parts. In the first part the said expression has been defined to mean the occupation by any person of the Public premises without authority for such occupation. It implies occupation by a person who has entered into occupation of any public premises without lawful authority as well as occupation which was permissive at the inception but has ceased to be so. The ***second part of the definition is inclusive in nature and it expressly covers continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. This part covers a case where a person had entered into occupation legally under valid authority but who continues in occupation after the authority under which he was put in occupation has expired or has been determined.*** *The words "whether by way of grant or any other mode of transfer" in this part of the definition are wide in amplitude and would cover a lease because lease is a mode of transfer under the Transfer of Property Act.* ***The definition of unauthorised occupation contained in Section 2(g) of the Public Premises Act would, therefore, cover a case where a person has entered into occupation of the public premises legally as a tenant under a lease but whose tenancy has expired or has been determined in accordance with law."*** (emphasis supplied)

49. Thus, the definition of unauthorized occupants includes any person who had entered into the public premises under an authority given to him, but the said authority either has expired or has been determined.

50. Thus, on determination of the lease by efflux of time, or otherwise, the appellants and writ petitioners became unauthorized occupants occupying the Government land. The Supreme Court *Ashoka Marketing* case *(supra)* even went to the extent of holding that PP Act has overriding

effect in respect of Government lands over State laws dealing with tenancy rights, such as the DRC Act.

51. Reliance placed by the appellants and writ petitioners on ***Dr. Suhas H. Pophale*** *(supra)* is misplaced. In ***Dr. Suhas H. Pophale*** *(supra)*, the Supreme Court took note of the fact that the tenancy, at its inception, was created by a private person in respect of private property, which property was subsequently acquired by the Government. However, facts of these cases show that subject properties were Government properties from the inception, i.e. at the time of grant of lease to the Societies, and continued to remain so. ***Dr. Suhas H. Pophale*** *(supra)* is, therefore, not relevant for this reason.

52. There is no dispute to the fact that the lease in favour of the Societies stood determined in the year 1967. The claim of the appellant's and the writ petitioner's that they were tenants of the Societies, and were paying rent to them was also rejected. The appellants and writ petitioners have also failed to bring to the notice of this Court any evidence to prove their contention that they were tenants under the Societies. The facts show that the lease was created in favour of the Societies for the use of its members only and, therefore, on determination of the lease, the Societies as well as the persons claiming through the Societies became unauthorized occupants of land.

53. The decision in the case ***Cantonment Board and Anr.*** *(supra)* also does not help the appellants and writ petitioners. The Supreme Court in this case has clearly held that the provisions of Section 106 and 107 of the

Transfer of Property Act are not applicable in the cases where the premises are covered under the Special Act. The PP Act is Special Act.

54. The appellants and the writ petitioners have also relied on the decision in the case of ***Rama Nand (supra)***. We have pursued the decision in the said case. The question before the Court in that case was, whether the tenant in respect of agricultural land, which was subsequently acquired by the State Government after 01.02.1955, shall be governed by the provisions of Punjab Security of Land Tenures Act, 1953, and can claim protection by virtue of Section 16 read with Section 9 of the said Act and can avoid ejectment under the provisions of Punjab Tenancy Act, 1887. The Division Bench of Punjab and Haryana High Court, on the facts of that case, held that *the rights of petitioners as tenants thereon would not be affected by virtue of Section 16 of the Act.* The Court had noted Section 16 of Punjab Security of Land Tenures Act, 1953 which was a saving clause, and reads as under:-

> *"16. Saving of tenancies from effect of mala fide transfer.*
>
> *Save in the case of land acquired by the State Government under any law for the time being in force or by an heir by inheritance, no transfer or other disposition of land effected after the 1st February, 1955, shall affect the rights of the tenant thereon under this Act."*

It was on account of the saving clause, i.e. Section 16 of Punjab Security of Land Tenures Act, 1953 – which protects the tenants, whose tenancy was created before 01.02.1955, that the Court gave its decision. The appellants and writ petitioners have failed to establish their rights as tenant under the Punjab Security of Land Tenures Act, 1953. The subject property was always Government property and the appellants/ writ petitioners are

unauthorized occupants of the subject land on determination of the lease of the Societies.

55. The appellants and the writ petitioners have failed to establish that the action of DDA under the PP Act for vacation of the land in their occupation is illegal and the orders of the Estate Officer are without jurisdiction and authority.

56. Admittedly, the eviction orders of Estate Officers under the PP Act against some of the occupants of public premises claiming their rights through Jheel Khuranja Cooperative Milk Producers Society Limited were upheld by the Coordinate Bench of this Court in ***Smt. Dhan Kaur*** *(supra)*. Similarly, the eviction orders passed under the PP Act by Estate Officers against some of the occupants of public premises, claiming their rights through Delhi Peasants Cooperative Multipurpose Society Limited, were upheld by the Coordinate Bench of this Court in ***Brij Pal*** (*supra*) in *LPA No. 810/2015*, decided on 17.11.2015. These two orders of Coordinate Benches of this Court – in respect of property allotted to Jheel Khuranja Cooperative Milk Producers Society Limited and Delhi Peasants Cooperative Multipurpose Society Limited relate to the same properties which were allotted under the same agreements to these Societies, though were in occupation of some other members of these Societies (other than the appellants and the writ petitioners before us), are binding on us on the principles of constructive *res judicata* and also on the principle that the similarly placed persons should be treated alike. The appellants and the writ petitioners before us are similarly placed persons and the earlier findings given in respect of similarly placed persons are also binding on them.

106

57. Thus, we find no illegality or infirmity in the impugned orders. The appeals and the writ petitions have no merit and are hereby dismissed along with the pending applications with no order as to costs.

58. Interim orders dated 23.12.2013 and 03.01.2017 stand vacated. The appellants and the writ petitioners and any person claiming through them are hereby directed to vacate the land in their occupation and deliver possession within a period of two weeks from today. If they fail to do so, they can be evicted by the respondents thereafter by resort to coercive methods.

DEEPA SHARMA
(JUDGE)

VIPIN SANGHI
(JUDGE)

JANUARY 31, 2018