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

+ **W.P.(C) 1453/2012**

**RESIDENTS WELFARE ASSOCIATION OF BHIKAM SINGH
COLONY** Petitioner

Through Mr.Amrit Pal S.Gambhir with
Mr.Siddharth Yadav, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through Mr.Siddhartha Shankar Ray,
Advocate for R-1.
Mr.Arun Birbal, Advocate for DDA.

% Date of Decision: 20th January, 2016

**CORAM:
HON'BLE MR. JUSTICE MANMOHAN**

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present writ petition has been filed primarily challenging the order dated 28th December, 2011 by which the petitioner's provisional registration certificate was cancelled.
2. The petitioner which claims to be an unauthorised colony being Bhikam Singh Colony, Block-33, Viswas Nagar, Shahdara, Delhi, seeks its inclusion in the list of unauthorised colonies pending regularisation.
3. Since there was a contradiction in the counter affidavits filed by GNCTD and DDA with regard to the built up area, this Court directed

on 25th March, 2014 that a joint survey be carried out by a Committee to be appointed by the Lieutenant Governor.

4. The Committee, comprising officials from DDA, EDMC as well as SDM, District Magistrate and Executive from GSDL, has concluded that the land in question was lying vacant in the years 2002, 2007 as well as 2011 and the said land is still lying vacant except for four jhuggies which are of temporary nature. The Committee has concluded that the provisional regularisation certificate has rightly been cancelled.

5. The learned counsel for petitioner controverts the finding of the said Committee. However, this Court is of the view that the findings of the Committee cannot be rejected on bald and frivolous grounds.

6. This Court is constrained to observe that not only the petitioner has lied through his teeth in the present proceedings but also some officials of the GNCTD had tried to help the petitioner by initially filing a factually wrong affidavit.

7. In any event, this Court in ***W.P.(C) 3386/2011*** in ***Sh. Atul Singh Gandas & Anr. Vs. Lt. Governor of GNCTD & Ors.***, has on 17th April, 2014 held that a provisional regularisation certificate is of no legal consequence and same cannot be considered or recognised by any Court or authority as creating right in favour of its recipient. The relevant portion of the said order is reproduced hereinbelow:-

“7. Ms. Zubeda Begum, learned standing counsel for respondent nos. 1 and 2 states that as per Regulations for Regularisation of Unauthorised Colonies existing in Delhi notified on 24th March, 2008 by Government of India, there is no provision for provisionally regularising any unauthorised colony. She states that issuance of a provisional regularisation certificate does not regularise any unauthorised colony

automatically.

8. *She also confirms that no physical verification was conducted by the State before issuing the provisional certificates. She has placed on record an additional affidavit of Mr. Mansoor Usmani, Deputy Secretary, Department of Urban Development, Government of NCT of Delhi dated 27th March, 2014, which reads as under:-*

“Most respectfully it is submitted that the Govt. of India notified the regulations dated 24.03.2008 for regularization of unauthorized colonies existing in Delhi, subject to fulfilment of Provisions laid down in above said regulations. As per regulations dated 24.03.2008 there is no provision for Provisionally Regularizing any unauthorized colony. It was a decision taken by the then Government and Provisional Regularization Certificates (PRC) were issued to the unauthorized colonies on the basis of certain documents submitted by RWAs representing unauthorized colonies and no physical verification was conducted before issuing PRC. The issuance of PRC does not regularize any unauthorized colony automatically. For regularization, unauthorized colony has to satisfy the provisions laid down under regulation dated 24.03.2008 and its subsequent amendments.

Further the PRC is neither a necessary not a sufficient condition for regularization of unauthorized colony. The clause 4.6.3 of Amendment dated 16.06.2008 states that “However, the final boundaries would be fixed by GNCTD only after completing all requisite formalities including those in clause 3 of regulations dated 24.03.2008.”

(emphasis supplied)

9. *The aforesaid affidavit filed by the Government of NCT of Delhi is accepted by this Court. The Government of NCT of Delhi is held bound by the same.*

10. *Mr. A.K. Sen, learned counsel for respondent nos. 6 to 8 states that petitioners have approached this Court with unclean hands inasmuch as petitioners have also got similar colonies provisionally regularised. In this connection, he has drawn this Court’s attention to a letter dated 13th July, 2010 written by Deputy Secretary (UC), Department of Urban Development, Government of NCT of Delhi at page 219 of the paper book wherein a decision has been recorded to keep the regularisation of certain colonies in abeyance till all the allegations made by certain complainants are examined.*

11. In rejoinder, Mr. Rajesh Yadav, learned counsel for petitioners refutes the aforesaid contentions/allegations.

12. This Court is of the view that if respondent nos. 6 to 8 have any grievance with regard to any application for provisional regularisation having been filed by the petitioners, they are at liberty to file independent proceedings. However, in this petition the said allegations cannot be examined as neither any detail has been provided nor any document has been placed on record to show as to for which colony the petitioners had applied for provisional regularisation.

13. In any event, in view of the Government of NCT of Delhi's admission that provisional regularisation certificate has no legal sanctity and confers neither any legal title nor any legal status, this Court is of the view that it need not quash the illegal and irrelevant provisional regularisation certificate issued by respondent-State Government.

14. However, to avoid any doubts, it is clarified that a provisional regularisation certificate is of no legal consequence and the same would not be considered or recognized by any Court or authority as the same creates no right in favour of the applicants. It is further clarified that no Court/authority shall recognise or pass any order relying upon the provisional regularisation certificate”.

8. As the provisional regularisation certificate has no legal sanctity, this Court is of the view that no useful purpose would be served in entertaining the present writ petition. Consequently, the same is dismissed with costs of Rs.25,000/- to be paid to Lok Nayak Jai Prakash Narayan Hospital within a period of two weeks.

MANMOHAN, J

**JANUARY 20, 2016
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