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

+ **CONT.CAS(C) 354/2011**

CHANDERBHAN GARG & ANR

..... Petitioners

Through: Mr.Sumit Bansal, Mr.Ateev Mathur,
Ms.Richa Oberoi & Mr.A.P.S.
Sehgal, Advs.

versus

KS MEHRA COMMISSIONER MCD

..... Respondent

Through: Mr.M.K. Singh, Adv. for DDA.
Ms.Biji Rajesh, Adv. for MCD.

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Date of Decision: 08th July, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

Matter has been listed today as 7th July, 2016 was declared holiday on account of Idu'l Fitr.

1. It is pertinent to mention that the present contempt petition has been filed alleging wilful disobedience of the order dated 2nd November, 2010 passed by a Coordinate Bench of this Court in Writ Petition (Civil) No.6862/2007, whereby respondent-MCD was directed to consider the petitioner's application for amendment/modification of the layout plan of the Colony of Rajouri Garden for adjustment of its plot without being influenced by the proposal for acquisition of the said land.

2. Learned counsel for the petitioner states that respondent-MCD has till date not complied with the aforesaid order inasmuch as the petitioner's application for amendment/modification of the layout plan has not been allowed.
3. On the other hand, learned counsel for the respondent-MCD states that MCD Standing Committee considered the petitioner's proposal and rejected the same since the land in question is shown as a Community Centre in the integrated layout plan prepared by DDA. Learned counsel for the respondent-MCD further states that MCD does not have the power or jurisdiction to amend the integrated layout plan prepared by DDA. Consequently, according to her, as the petitioner's plot is shown as a part of a Community Centre in the integrated layout plan of DDA, the layout plan cannot be amended to show the petitioner's land as residential plot.
4. Learned counsel for DDA states that it has no role to play in the present contempt proceedings as the directions given in the order dated 2nd November, 2010 was confined to respondent-MCD. He also emphasizes that the question of adjustment of the petitioner's plot in area outside the Community Centre vis-a-vis the question of revised layout plan of the area needs to be done by the respondent-MCD.
5. In rejoinder, learned counsel for the petitioner states that the arguments advanced by the learned counsel for the respondent-MCD have already been rejected by the predecessor of this Court vide a detailed order dated 29th February, 2012.
6. After hearing the counsel for the parties, this Court is of the view that vide order dated 2nd November, 2010, respondent-MCD was directed to

consider the petitioners' application for amendment/modification of the layout plan of the Rajouri Garden Colony for adjustment of petitioners' plot without being influenced by the proposal for the acquisition of the said land.

7. Vide order dated 29th February 2012, it was clarified by the predecessor of this Court that the layout plan stood amended so as not to include the Community Centre on the land of the petitioners. The relevant portion of the said order is reproduced herein below:-

“When the petitioners’ writ petition being W.P.(C.) No. 6862/2007 was disposed of, the Court observed that the petitioner could not be kept waiting endlessly. The MCD was directed to consider the application of the petitioner for amendment/modification of the layout plan of Rajouri Garden Extension for adjustment of the plot in the said colony without being influenced by the proposal for acquisition of the said plot for the purpose of developing community centre. The Government of National Capital Territory of Delhi (GNCTD) was granted ten weeks time for taking steps for acquisition of the land as, without such acquisition, no community centre could possibly be set up. It was for this reason that the MCD was granted fourteen weeks time to consider the amendment/modification of the layout plan.

Admittedly, no steps have been taken by the GNCTD to acquire the petitioners’ plot till date. The petitioners cannot be left to face an impossible situation. The land use of the petitioners’ plot is residential. The petitioners’ case squarely falls within and is covered by Section 55 of the Delhi Development Act which reads as follows:

“55. Plans to stand modified in certain cases

(1) Where any land situated in any area in Delhi is required by the master plan or a zonal development plan to be kept as an open space or unbuilt upon or is designated in any such plan as subject to compulsory acquisition, then, if at the expiration of ten years from the date of operation of the plan under section 11 or where such land, has been so required or designated by any amendment of such plan,

from the date of operation of such amendment, the land is not compulsorily acquired, the owner of the land may I[serve on the Central Government a notice] requiring his interest in the land to be so acquired.

(2) If the Central Government fails to acquire the land within a period of six months from the date of receipt of the notice, the master plan or, as the case may be, the zonal development plan shall have effect, after the expiration of the said six months as if the land were not required to be kept as an open space or unbuilt upon or were not designated as subject to compulsory acquisition.”

If, according to the respondents, the petitioners’ plot falls in the area meant for a community centre, the same not having been acquired despite sufficient notice (notice is deemed to have been served at least when the order dated 02.11.2010 was passed by the Court), the Master Plan and the Zonal Development Plan stand amended so as not to include the community centre on the land of the petitioners. Consequently, the layout plan would also stand amended accordingly which is a more detailed plan.

The rejection by the Standing Committee of the MCD is only founded upon the consideration that the land in question is earmarked for setting up a community centre as shown in the approved layout plan. Since the approved layout plan stands amended, the Standing Committee is now directed to once again consider the petitioners’ case in the light of the aforesaid and to reconsider the case positively within the next four weeks.”

(emphasis supplied)

8. In view of the aforesaid order, the integrated layout plan of DDA stood modified. Consequently, this Court is unable to appreciate as to why the respondent-MCD has till date not allowed the petitioners’ application for adjustment of its plot in the Rajouri Garden layout plan.
9. It is also pertinent to mention that despite filing the initial writ petition in 2007, admittedly, till date, no steps have been taken for acquisition of the

petitioners' land by either of the respondents. During the course of proceedings, this Court was also informed that the respondent-DDA has already constructed the Community Centre across the road.

10. At this stage, learned counsel for the respondent-MCD, on instructions, states that the direction given by this Court on 2nd November, 2010 shall be duly complied within a period of six weeks.

11. Keeping in view the aforesaid statement made by learned counsel for the respondent-MCD, this Court does not intend to take the matter to its logical conclusion.

12. However, the statement made by learned counsel for respondent-MCD is accepted by this Court and the respondent is held bound by the same. The respondent-MCD is warned that if the undertaking given by the counsel is not complied with, strict legal action will be initiated against its officials.

13. With the aforesaid directions, the contempt petition stands disposed of.

MANMOHAN, J

JULY 08, 2016
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