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

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*Date of Judgment : 02.11.2016*

**W.P.(C) 4853/2013 & C.M. No.3596/2014**

**JAL KAUR EDUCATIONAL SOCIETY & ORS ..... Petitioners**

Through Mr.Prakash Gautam and Mr.Vivek  
Ojha, Advocates.

versus

**DELHI DEVELOPMENT AUTHORITY & ORS. .... Respondents**

Through Ms.Shobhna Takiar, Advocate for  
DDA/R-1.

Mr.Naushad Ahmed Khan, ASC for  
GNCTD/R-2.

Mr.S.D.Windlesh, Advocate for  
UOI/R-3.

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

**INDERMEET KAUR, J.** (oral)

1 Petitioner before this Court is Jal Kaur Educational Society, a society registered under the Societies Registration Act. The petition has been filed through its Chairman.

2 The contention in the petition is that a colony namely Lado Sarai Extension came into existence in the year 1908. On 13.11.1059 a

Notification under Section 4 of the Land Acquisition Act (hereinafter referred to as the said Act) was issued for acquiring total land measuring 24 bighas situated in Village Lado Sarai, Tehsil Mehrauli, New Delhi. A declaration under Section 6 of the the said Act was issued qua this land on 16.6.1966. Petitioner nos.2 to 4 had constructed their building on their respective land earmarked as 225-A, 225-B and 225-C in the year 1974-75. The khasra Girdwari also noted that this land belongs to the petitioners. The Award was passed on 19.6.1980. Compensation had not been taken by the petitioners. In the year 1982 writ petition No.1189/1982 was filed by the residents of village Lado Sarai. These proceedings were dismissed on 14.12.1995. The SLP (No.3434/1996) filed against the order of the Bench of the High Court was dismissed on 01.11.1996. Pursuant to the direction of the Apex Court the representation dated 08.4.1997 was filed by the petitioner nos.2 to 4 before the DDA.

3 In the year 1997, the erstwhile father of the petitioners had also filed a suit (Civil Suit No.1619/1997). This suit sought a prayer that the representation dated 08.4.1997 filed by the petitioners be considered accordingly.

4 Petitioner no.1 is running a school at the aforementioned site since the year

2002. Recognition had also been granted to the school by the MCD on 18.9.2002. His application seeking regularization is also pending before the Competent Authority.

5 Additional submission as is borne out from the writ petition is that the order of respondent no.2/Government of NCT of Delhi concerning unauthorized colonies was issued on 12.12.2007 wherein the name of Lado Sarai Extension figures at serial no.483 in the list of Unauthorized Colonies which are pending regularization.

6 Meanwhile the suit (Suit No.1619/1997) already filed by the father of the petitioners no.2 to 4 was dismissed by the Trial Court on 04.6.2010. The RFA (No.579/2010) was preferred by the petitioners which was also disposed of on 09.7.2013. Submission of the petitioners is that the respondents are hell bent upon to take coercive steps against the property of the petitioners in spite of the fact that the Lado Sarai Extension Colony is yet pending regularization before the Competent Authority. This writ petition was accordingly filed in July, 2013.

7 Respondent no.1/DDA has filed a reply/response. Submission is that the petitioner has no legs to stand on. The case of the petitioners from the very inception is that this land falls in Village Lado Sarai. The area in

question is in fact Lado Sarai and not Lado Sarai Extension as is the plea of the petitioners taken by them only in this petition. This plea was never emanated earlier. Submission is that this land already stands acquired under the Land Acquisition Act and has been taken over for a planned development of Delhi and it had in fact been allotted to Shanti Memorial Hospital in the year 1997. This land cannot be regularized as the acquisition proceedings qua this land have been completed and allotment in favour of the aforementioned hospital has already been taken place. The act of the petitioners in challenging the acquisition proceedings has been dismissed right up to the Apex Court. The petitioners are only land grabbers and they are not entitled to any protection.

8 The stand of respondent no.2/GNCTD in their counter affidavit is that the Lado Sarai Extension is an unauthorized colony. Two Residents' Welfare Associations i.e. Lado Sarai Extension Welfare Association and Lado Sarai Welfare and Cultural Association have submitted their layout plan for regularization of unauthorized colony against registration no.483 of the GNCTD. As per their Regulations dated 24.3.2008 the boundary of the unauthorized colony bearing Registration no.483 has not been delineated. It is not possible for the DDA to ascertain the khasra number falling within the

aforenoted boundary. Further submission is that all construction after 08.02.2007 is not protected under the National Capital Territory of Delhi Laws (Special Protection) Act, 2007.

9 Learned counsel for the petitioners submits that his property falls in Lado Sarai Extension and this is clear from the documents of the Delhi Government itself where the name of the petitioner nos.2 to 4 find mention at serial no.207. Submission is that the Government itself is confused. There is no distinction between Lado Sarai and Lado Sarai Extension. This is clear from the document at page 189 of the paper book. Additional submission is that the stand of respondent no.2 is also clear in this regard. Respondent no.2 is yet to delineate the khasra numbers to arrive at a conclusion whether these khasras fall in Lado Sarai or Lado Sarai Extension.

10 These submissions have been refuted by learned counsel for respondent no.1. His stand is that the stand of the petitioners all along since the time when their father had filed the suit which was in the year 1997 up to the date of filing of the writ petition is always that the land of the petitioners falls in village Lado Sarai. Their case for the first time in the writ petition is that the land falls in Lado Sarai Extension. This has created a confusion in the mind of the Court. Attention has been drawn to an order passed by the

Single Judge of this Court dismissing the RFA which was on 09.7.2016. The submission again reiterated that the case of the petitioner cannot now be changed as their case always was that their land falls in village Lado Sarai.

11 The respondent no.2 has supported the stand of respondent no.1. His submission is that the delineation of the khasra numbers was on the application filed by the Two Residents' Welfare Associations i.e. Lado Sarai Extension Welfare Association and Lado i.e. Lado Sarai Welfare and Cultural Association.

12 Arguments have been heard and record has been perused.

13 Record shows that the petitioner all along has described himself as the owner of the land falling in Village Lado Sarai. This is clear from the plaint which he had filed in Suit No.1619/1997. This plaint had in fact been amended and even in the amended plaint petitioner nos.2 to 4 have been described as residents of 225-A, 225-B and 225-C Village Lado Sarai. There was never any reference to village Lado Sarai Extension. The fact that this land was notified for acquisition under Section 4 of the Land Acquisition Act on 13.11.1959 is also a matter of record. The fact that this land was actually notified and the award qua this land was passed by the LAC on 19.6.1980 is also a matter of record. The writ petition filed by the petitioner against this

acquisition was dismissed on 14.12.1995. The SLP against that order was also dismissed on 01.11.1996.

14 The averments in the suit (amended plaint on record) clearly show that the petitioners were living in their portions in village Lado Sarai. This has been reiterated in various portions of the plaint. Para 14A is in fact specific on this count. This suit for injunction had been dismissed. An appeal against this order was also dismissed in RFA No.579/2010 on 09.7.2013. The facts were again reiterated by the RFA Court. It was reiterated that the land falls in Village Lado Sarai. At the cost of repetition, this was always the stand of the petitioners that this land measuring 4 bighas 2 biswas comprising three separate constructions numbered 225-A, 225-B and 225-C in khara no.164 falls in Village Lado Sari, Tehsil Mehrauli, New Delhi. The RFA Court had noted that the stand of the petitioner that the acquisition proceedings have now reached the finality and they are not subject matter of any challenge.

15 The contention of the petitioners which has now been raised before this Court that there is a discrimination and their case is hit by Article 14 of the Constitution of India was also an issue before the Apex Court. The submission of the petitioners before this Court today is that their case has

been segregated from the case of others and they have been prejudiced. This argument was also taken up before the Apex Court which was negatived. This has been noted by the RFA Court in para 5 of its order.

16 The representation of the petitioner dated 08.4.1997 filed before the DDA was also considered. Again his case was that his property falls in Village Lado Sarai. He had sought regularization qua this land. This representation was rejected by the DDA; the RFA Court had noted that this has been brought to the notice of the petitioners on 17.11.1997; it was noted that the land already stands acquired and it has been placed at the disposal of the DDA; this land has also been allotted in favour of Shanti Memorial Hospital. The Court had also noted that the right of regularization is to a colony and not of the individual structures or houses.

17 The RFA had been dismissed on 09.7.2013. The dismissal of the RFA has closed all doors of the petitioners. The Court had in fact thought it fit to initiate contempt proceedings against petitioners because of suppression and concealment of facts.

18 It is relevant to note that the present petition has been filed on 26.7.2013 i.e. within a span of less than two weeks from the date of dismissal of his RFA. The prayer in the petition is relevant; it reads as

under:

*“In view of the facts and circumstances mentioned hereinabove, this Hon’ble Court may be kind enough to allow the present petition thereby prohibiting the respondents, their officials, employees etc. from demolishing and or dispossessing the petitioners from their respective structures built on the land admeasuring 4 bigha 2 biswa falling in khasra no.164, at Lado Sarai Extension, New Delhi and also the premises bearing no.225-A, 225-B and 225-C Village Lado Sarai, New Delhi.”*

19 This Court is of the view that this prayer has already been answered. His suit for permanent and mandatory injunction already stood dismissed not only by the first Court but also endorsed by the finding returned by the RFA Court on 09.7.2013. No appeal has been filed against the order of the RFA Court which has become a final order. All along the case of the petitioners was that their land falls in Village Lado Sarai i.e. premises nos.225-A, 225B and 225-C. For the first time, a plea has now been taken before this Court that their land falls in Lado Sarai Extension. This was never their case earlier. The fact of the case is that this land stood acquired long back and the acquisition proceedings have since been completed; the petitioners, however, chosen to buy time and they have misused the process of the Court

and filed one litigation after other; this is not the business of the Court. The RFA which was dismissed on 09.7.2013 had already answered the prayer sought to be set up in the present petition. The stand of respondent no.2 does not come to the aid of the petitioners. This stand of respondent no.2 was an answer to the Two Residents' Welfare Association who had sought claim. The fact mentioned in their counter affidavit is that there was a clear distinction between Lado Sarai and Lado Sarai Extension. The submission of the petitioners before this Court that Village Lado Sarai and Lado Sarai Extension are one and the same is thus negatives.

20 This petition is without any merit. It is dismissed with costs quantified at Rs. 25,000/-.

**INDERMEET KAUR, J**

**NOVEMBER 02, 2016**  
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