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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5918/2013 & CM APPL. 13059/2013

AIRPORTS AUTHORITY OF INDIA Petitioner
Through: Ms. Anjana Gosain, Advocate with
Mr. Vishu Agrawal, Advocate.

versus

UNION OF INDIA & ANOTHER Respondents
Through: Mr. Vikram Jetly, Advocate for UOI.
Mr. Arun Birbal, Advocate with
Mr. Sanjay Singh, Advocate for DDA.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

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ORDER
09.05.2016

Present writ petition has been filed with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon’ble Court by way of writ of mandamus may direct the respondent not to act upon the impugned notice dated 11.9.2013 and further quash the impugned notice dated 11.09.2013 the same being arbitrary, illegal and without any jurisdiction and

Pass such other or further order/s as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

The impugned notice dated 11th September, 2013 reads as under:-

“I am directed to refer to this office letter Nos.L-II-11(114)/416 dated 13th June, 2006 and NO.L-II-11(114)/569 dated 8th August, 2006, regarding resumption of Safdarjung

Airport land and requesting M/o Civil Aviation to shift all residual activities from Safdarjung Airport to Palam Airport so that the Safdarjung Airport land measuring 184.153 acres could be utilized/preserved in an appropriate manner and letter NO.L-11A-11(114)/534 dated 21st August, 2007, addressed to DGCA, regarding resumption of land measuring 5.5 acres additionally allotted to DGC for extension of Safdarjung Airport runway and to inform that with the approval of Competent Authority it has now been decided to resume the above mentioned land, under the possession of Airport Authority of India/CGDA, on 17-09-2013.

It is, therefore, requested that concerned officer(s) may be deputed to hand-over the possession of land to Land and Development Office, Ministry of Urban Development on 17-09-2013 at 11.00 AM. The officers from Ministry of Urban Development will reach at Airport Authority of India Club building (near Flying Club), Safdarjung Airport Complex to resume the land on 17-09-2013 at 11.00 AM.”

(emphasis supplied)

On the last date of hearing, learned counsel for Union of India has handed over an Office Memorandum dated 21st March, 2016 whereby the land of Safdarjung Airport was directed to be restored to the petitioner. The Office Memorandum dated 21st March, 2016 is reproduced hereinbelow:-

“Sub: Restoration of land at Safdarjung Airport to Ministry of Civil Aviation/Airports Authority of India.

I am directed to say that it has been decided to restore the land of Safdarjung Airport area measuring 184.153 acres to Ministry of Civil Aviation/Airports Authority of India, resumed earlier vide this office letters No.L-II/11(114)/416 dated 13.6.2006 on the following terms and conditions:

a.) That the said land will be used for operational airport/airport infrastructure/aviation related activities in

the MPD 2021 and allow Airports Authority of India/Ministry of Civil Aviation to use the said land for aviation related activities.

b.) However, in future, if Airports Authority of India/Ministry of Civil Aviation puts any part of the Safdarjung Airport land to any use other than those relating to aviation as mentioned above, whether by lease to another party or otherwise, then prior approval of Cabinet Committee on Security shall be obtained.

This issues with the approval of Hon'ble Minister for Urban Development."

(emphasis supplied)

Instead of Airport Authority of India withdrawing the writ petition on the ground that it stood satisfied, learned counsel for petitioner states that she is under instructions not to withdraw the present writ petition.

According to the petitioner, it is entitled to a clarification from Ministry of Urban Development that property tax has been regularly and properly paid by it and as the petitioner is the owner of the land in question, there is no question of restoration of land.

From the aforesaid prayer clause, it is apparent that there is no such relief prayed for in the writ petition.

To say the least, the course of action adopted by the Airport Authority of India is not legal. The prayer clause having been satisfied in the present writ petition, petitioner can agitate the aforesaid issue only by filing a fresh substantive writ petition seeking the said reliefs.

It seems to this Court that the intent of Airport Authority of India is to protract the present litigation for reasons best known to it. Though the Court was inclined to impose costs on the petitioner, but realising that the same

would ultimately have to be paid by the public as the petitioner is a statutory undertaking, it restrains itself.

Consequently, present writ petition and application are dismissed as satisfied.

However, petitioner is given liberty to challenge in accordance with law the terms and conditions on which the Safdarjung Airport land has been restored to it.

It is clarified that this Court has not expressed any opinion on the merits of the restoration order. Rights and contentions of all the parties are left open.

MANMOHAN, J

MAY 09, 2016

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