

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

% *Date of Decision : January 14, 2016*

+ **LPA 840/2012**

DELHI PUNJAB GOODS CARRIER (REGD.) Appellant
Represented by: Ms.Iti Sharma, Advocate

versus

DELHI DEVELOPMENT AUTHORITY Respondent
Represented by: Mr.Ajay Verma, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

PRADEEP NANDRAJOG, J.

1. Writ petition filed by the appellant was dismissed by the learned Single Judge vide impugned order dated December 10, 2012.
2. Case pleaded by the appellant in the writ petition was that property No.2, Amar Park, Zakhira, Delhi was initially taken on rent by the appellant from the erstwhile owner in the year 2007 and was subsequently purchased by the appellant from the owner vide registered sale-deed dated June 01, 2010. It was pleaded that DDA had no jurisdiction to seal the property.
3. It was the case argued before the learned Single Judge that the area in which the writ property was located was not a development area and thus DDA could not exercise any power under the Delhi Development Act, 1957, much less under Section 31A of the said Act.

4. As per DDA the land on which a super structure was constructed and was in possession of the appellant was acquired by the appropriate government and its possession was handed over to DDA save and except 9 biswa land comprised in Khasra No.398. As per DDA the land forming subject matter of the writ petition was comprised in Khasra No.398 other than the one which was not acquired and was under the ownership of Delhi Cloth Mills. It was further the case of DDA that the person who was originally occupying the land was given an alternative site upon surrendering the subject premises.

5. The writ petition was disposed of by the learned Single Judge directing as under:-

“6. Be that as it may. Since it is required to be established as a matter of fact that whether subject premises fall in development area or not, therefore, it would be appropriate to direct respondent to take a decision on petitioner’s request for permanent de-sealing of subject premises within a period of four weeks or so, if already not taken and communicated. Needless to say, question of subject land being in a development area would be also dealt with, in the context of Section 36 of the Delhi Development Authority Act, 1957 and if it is found that the subject premises does not fall in development area, then jurisdiction under Section 36 of the Delhi Development Authority Act, 1957 has to be exercised by respondent and consequential orders are required to be passed by the Competent Authority. Let petitioner’s Authorized Representative appear before respondent’s Commissioner (Land Development) on 12th December, 2012 for presenting its case before the concerned authority, who after hearing petitioner shall take a decision within the aforesaid stipulated period and to intimate the outcome of the aforesaid Representation to petitioner within a week thereafter, so that petitioner may avail of its remedy under the law, if required. De-sealing of the subject premises till decision upon

Representation is not being ordered, as Section 31A of the Delhi Development Authority Act, 1957 permits sealing before the making of an order for removal of unauthorized occupation etc. However, if eventually it is found that subject premises do not fall within development area i.e. within jurisdiction of respondent, then petitioner would be at liberty to institute suit for compensation/damages against the respondent.”

6. We would like to speak a word on the state of affairs in Delhi and the litigation which it has generated. Vacant land has been acquired in Delhi since the year 1959 under the large scheme of Planned Development of Delhi. The acquired lands were placed at the disposal of DDA for development purposes and after development a notification was to be issued de-notifying the area as a development area and building activity thereafter as also land used to be regulated by the erstwhile Municipal Corporation of Delhi. What has happened is that these acquired lands have been trespassed upon by unscrupulous colonizers who have carved out private colonies without any sanction of a lay-out plan. It is virtually impossible to say with precision as to which plot falls in which khasra number. The plot of land in the instant case, as pleaded by the appellant is 38.88 square meters. Not only have the unscrupulous colonizers made illegal gains, but the public funds have been milked further because for the development work for which the lands were acquired required the subsequent purchasers to be thrown out and vote bank politics led the Government to frame a policy of rehabilitation. These purchasers of land in these unauthorized colonies were given alternative plots at concessional rates. The subject land and land around it was acquired for construction of the Zakhira Flyover.

7. A perusal of the order passed by the learned Single Judge would show

that Delhi Development Authority has been directed to take a decision on appellant's request for property to be permanently de-sealed. The issue whether the subject land is or is not in a development area has also been directed to be decided by the competent authority. Liberty has also been granted to the appellant to file a suit for damages if it was ultimately found that the DDA had no authority to seal the property.

8. We find no error in the direction issued by the learned Single Judge. Contention of learned counsel for the appellant in the interim order dated January 10, 2013 passed by this Court while issuing notice requires this Court to decide the issue relating to interpretation of Section 30, 31 and 31A of the Delhi Development Act, 1957.

9. Now, we fail to understand as to how any issue in the appeal concerns interpretation of said Sections.

10. The issue raised by the appellant is that the area in question is not a development area. This would be a matter of fact unconcerned with the interpretation of Section 30, 31 and 31A of the Delhi Development Act, 1957. Needless to state if the area is a development area, DDA would be entitled to take action as per law. If the area is not a development area, DDA cannot take any action with respect to the property.

11. That apart, merely because the appellant has a title document post award from some person would be irrelevant.

12. With the land being acquired and compensation paid and possession taken over title would vest in the acquiring authority. Thereafter if the land is placed at the disposal of DDA, no assertion on title qua the land can be the foundation of an action.

13. Finding no infirmity in the direction issued by the learned Single

Judge we dismiss the appeal but without any order as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(MUKTA GUPTA)
JUDGE

JANUARY 14, 2016
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