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

+ **W.P.(C) 4546/2015 and C.M. No. 8252/2015**

RAMPHAL TYAGI AND ORS.

..... Petitioners

Through: Ms. Smita Maan with Mr. Vishal
Maan, Advcoates.

Mr. Murari Tiwari with Mr. Rahul Kumar,
Advocates for P-17, 18, 9 & 20.

Mr. Lalit Gaur, Advocate for C.M. No.
37169/2016.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. R. K. Agnihotri, Advocate for R-
1/GNCTD.

Mr. Yeeshu Jain, Advocate for LAC and L & B.

Mr. Ajay Varma with Mr. Arjun pant, Advocates
for DDA.

+ **W.P.(C) 10884/2015 and C.M. No. 28087/2015**

SHISH RAM TYAGI AND ORS.

..... Petitioners

Through: Mr. Aman Mehrotra, Mr. Ansh
Tewatia, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Advocate for LAC
and L & B.

Mr. Ajay Varma with Mr. Arjun pant, Advocates
for DDA.

AND

+ **W.P.(C) 8102/2015 and C.M. No. 16775/2015**

RAJESH TYAGI & ORS

..... Petitioners

Through: Ms. Rishika Arora for
Mr. Bhuvneshwar Tyagi, Advocate

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Yeeshu Jain, Advocate for LAC
and L & B.

Mr. Ajay Varma with Mr. Arjun Pant, Advocate for
DDA.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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20.11.2018

1. A peculiar issue arises in this batch of petitions where the Petitioners have come forth for a declaration of lapse of land acquisition proceedings in respect to the land otherwise known as '*shamlat de*'.

2. The case of the Petitioners is in respect of total land in Khasra No. 732 (12-06), 4023/733 (27-19), 4026/2785/734 (00-10), 4027/2785/734 (36-13) admeasuring 77 *bighas* 8 *biswas* situated in the Revenue Estate of Village Basai Darapur, Delhi pertinent to which Award No.7/1997-98 dated 12th December 1997 was issued in which Award the names of the Petitioners figure among 216 claimants. According to the Petitioners, physical possession was not taken by the Land Acquisition Collector (LAC) of the entire land but only of 58 *bighas* 10 *biswas* by way of *Kabza Karwai*/Possession Report dated 31st January, 1st February, and 2nd February 2002. The Petitioners claim that physical possession of land

admeasuring 18 *bighas* 12 *biswa* has not been taken by the Respondents and “the same continues to be with the Petitioners and the other co-owners till date”.

3. An objection was taken by the respondent-DDA in its reply stating that the Petitioners had not placed on record any document showing them to be the owners of the land in question. Further, it is alleged that they had also failed to place on record any site-plan identifying their respective lands. Further, it was pointed out that even though they have claimed themselves to be “co-owners of the land in question along with other persons, their details are neither mentioned in the petition nor they have been made a party to the present petition”.

4. When this Court was hearing these petitions on 12th January 2018, after taking note of these facts, a direction was issued to all the Petitioners “to file affidavits to state as to whether they are competent to bind the other co-owners and as to whether they have any interest adverse with respect to the co-owners”.

5. Pursuant to said direction, affidavits have been filed by the Petitioners in which it is *inter alia* stated that the land in question “was undivided and jointly owned by the deponent and other co-owners and the deponent is having undivided interest over entire and every parcel of the land in question along with other petitioner/other co-owners and does not have any claim/adverse interest against the other co-owners or their shares”. It was also claimed that the petition was filed “on the basis of doctrine of agency

and it is to be assumed that the consent of the co-owners has been taken to ensure the benefit of the land in question by seeking declaration with respect to the entire land in question”.

6. These affidavits, therefore, do not advance the case of the Petitioners any further since they do not answer the specific query raised by this Court.

7. The complication that arises, as can be perceived by this Court, is that although, originally, it was noted in the Award passed by the LAC way back on 12th December 1997 that there were as many 216 claimants in respect of the land in question, the number of Petitioners/claimants before the Court in this batch of petitions, including those impleaded, would come to around 70. None of these claimants before the Court are able to reproduce any original record by way of any original entry in a *Khasra Girdawari* to show the extent of their right/interest/share in the lands in question.

8. At this stage, learned counsel for the Petitioners draws our attention to some of the photocopies of *Khasra Girdawaris* which are placed on the record. These, however, are of 1987 vintage and, as noticed are photocopies. Further, the Court has no assurance that the position as of today continues to be the same. In any event, from the side of the Respondents also, there is no assistance by production of the original record. Mr. Yeeshu Jain, learned counsel appearing for the LAC, states that *Naksha Murtazami* is not available for production.

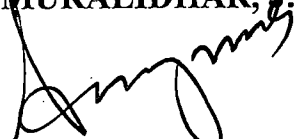
9. In these circumstances, it is unsafe for the Court to proceed on the basis that the Petitioners/claimants have established their clear right/interest/share

in the land in question on the basis on documents produced. The Court is of the view that each of the Petitioners/claimants must demonstrate, without doubt, on the basis of credible original documents forming part of an official record that they have an undisputed right/share/interest in the land in question to enable them to succeed in their prayers for declaration of the lapsing of the acquisition proceedings in respect of that particular right/share/interest in such land.

10. Accordingly, while granting liberty to each of the Petitioners/claimants to pursue their individual claims in respect of their respective shares/interest/right in the land in question in separate proceedings in accordance with law and in the manner indicated hereinbefore, these petitions are disposed of and the pending applications are also disposed of.



S. MURALIDHAR, J.



SANJEEV NARULA, J.

NOVEMBER 20, 2018

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