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

+ W.P.(C) 12019/2016 & CM No.47421/2016

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Date of decision : 24th January, 2018

CORRUPTION AGAINST SOCIETY REGD Petitioner

**Through : Mr. Arun Kaushal and
Mr. V.K. Pandey, Advs.**

versus

GNCT OF DELHI AND ORS Respondents

**Through : Mr. Gautam Narayan, ASC-
GNCTD/R-1 with Mr. R.A.
Iyer and Ms. Mahamaya
Chatterjee, Advs.
Mr. Dhanesh Relan, SC for R-
DDA with Ms. Gauri
Chaturvedi, Adv.
Mr. Arun Monga,
Mr. Suryajyoti Paul Singh, Ms.
Divya Sharma and
Ms. Marcellina Kalikotey,
Advs. for R-7**

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. This writ petition has been filed seeking the following prayers from this court:

“a. Issue writ in the nature of mandamus directing thereby the respondent no.8 & 9 to re-affix DDA sign board over the DDA land bearing khasra Nos. 546/491/421 Min, 548/492/421 Min, 562/424 Min, 431 Min, 432 Min, 421 Min, 426 Min, 423 of Village Jasola, Tehsil Sarita Vihar, District South-East, New Delhi, now known as Abdul Fazal Enclave Part-II, Block G & H, New Delhi and the area which is registered in the list of unauthorised colony at serial no. 1182.

b Issue a writ in the nature of mandamus directing thereby respondent no 8 & 9 to remove the encroachment from the above said DDA land of Village Jasola Tehsil Sarita Vihar, District South-East, New Delhi, now known as Abul Fazal Enclave, Part –II, Block G & H, New Delhi, encroached by the members of respondent no. 7 i.e. Allimuddin, Suristh Tiwari and Deepak Mansa Ramani.

c. Issue a writ in the nature of mandamus directing thereby respondent no 1 to 4 to hold an enquiry on the complaint made to them by the petitioner against respondent no.5 and proceed against him in accordance with law

d. Issue a writ in the nature of mandamus directing thereby respondent no 1 and 2 to transfer the respondent no.5 from the present post to some other area till the enquiry on the complaint of the petitioner is not completed by the respondent no.1 to 4.

e. Issue a writ in the nature of mandamus directing thereby respondent no 6 to conduct an enquiry on the complaint dt. 14.10.2016 made by the petitioner against the respondent no.6 and cancel the certificate issued to respondent no. 7 if it is found in the enquiry that there is no resident or occupant is residing in the area in question. (Copy of which is annexed herewith as Annexure – P8)

f. Issue any other writ or pass an order and direction in the nature of mandamus in favour of petitioner and against the respondents in the facts and circumstances as mentioned

hereinabove in the interest of justice.”

2. We have heard Mr. Arun Kaushal, learned counsel for the petitioner; Mr. Gautam Narayan, learned ASC for the GNCTD; Mr. Dhanesh Relan, learned SC for the DDA and Arun Monga, learned counsel for the respondent no.7 who have carefully taken us through the entire record of the case. Prayer ‘a’ in the writ petition is premised on the averment, that the same is the land which has been acquired by the DDA. The detailed disclosures with regard to the status of the land as well as the litigation and orders passed therein has been placed by Mr. Dhanesh Relan, learned counsel for the DDA drawing our attention to the following averments in the status report on affidavit of the DDA:

“5. I say that the Petitioner has claimed through the captioned petition that the afore-detailed khasra no.s are owned by the answering respondent. I say that the subject land was acquired vide award no/ 21/92-93 and the physical possession of Khasra no. 546/491/421 min, 548/492/421 min, 562/424 min, 431 min, 431 min, 421 min, 426 min and 423 min was handed over to the answering respondent by the land acquisition collector on 19.01.2006. That the possession of khasra no. 436 min (0-14), 546/491/421 min (0-06), 490/421 min (0-03), 548/492/421 min (0-05) and 52/424 min (0-04) had been handed over to the answering respondent by the Land Acquisition collector on 19.01.2006 on as is where in basis due to built up. It is further submitted that the answering respondent vide letter dated 25/11/2011 had approached the Pr. Secy (U.D). GNTD to delete the name of the colony namely Abul Fazal Enclave Block G and H part II from the list of unauthorized colonies. The contents of the letter dated 25.11.2011 are not being repeated herein for the sake of

brevity but a copy of the same is annexed hereto as Annexure A-2.

*6. However, the afore-detailed khasra nos. are subject matter of various litigations under Section 24(2) of the New Land Acquisition Act, 2013. The various litigations filed for the afore-detailed khasra nos. are detailed as under and the orders of the below detailed litigation are annexed as **Annexure A-3** :-*

	Particulars of the case	Khasra nos.	Status
1	DDA VS. Alimuddin SLP-17740/2015 From WPC 8122/2014	Khasra No.553/491/421 measuring 2 bighas and 06 biswas	Dismissed on 04.05.2017
2	DDA vs. Raghubir Singh SLP-19208/2015 From WPC 8072/2014	Khasra No.431 min measuring 2 bighas and 5 biswa	Dismissed on 31.08.2016 granting 1 year to the answering respondent to acquire the subject land
3	DDA vs. Ishlamuddin SLP 19207/2015 From WPC 7875/2014		Dismissed on 29.11.2016 granting 1 year to the answering respondent to acquire the subject

			land.
4	Kartari Devi vs UOI & Ors. WPC 4456/2015	Khasra Nos. 426 m (2-12) and 432 m (5-10)	Acquisition declared to have lapsed vide order dated 28.08.2017
5	Deepak Mansaramani vs UOI & Ors. WPC 8825/2016		Pending – Order to maintain status quo passed on 30.09.2016
6	Om Prakash Khanijo vs UOI & Ors. WPC 8584/2015		Pending – Order to maintain status quo passed on 08.11.2016

That as is apparent and evident the answering respondent is bound by the afore-submitted orders and cannot disturb the possession and nature of occupation of the subject khasra nos. It is humbly submitted that the respondent herein cannot restore the sign boards of the answering respondent on the subject khasra nos. as the same would tantamount to contempt of the afore-submitted orders as passed by the Hon'ble Supreme Court as well as this court."

3. In view of the above position, the submission of the petitioner that the land in question is acquired land is factually incorrect.
4. The other prayers made by the petitioner are premised on the plea that there is no unauthorised colony in the name and style of Abul

Fazal Enclave and that the respondent nos. 7 and 8 have filed a false claim regarding existence of such a colony. Based on this submission, it is contended, that the GNCTD has given a false provisional registration certificate to this colony as one of the unauthorised colony slated for regularisation under the scheme for this purpose of the GNCTD.

5. Alongwith the counter affidavit filed by the Govt. of NCT of Delhi-respondent no.1, it has been stated that pursuant to advertisements issued by the Government, applications were received between the year 2007-08 from different Residents Welfare Associations (RWAs) in the GNCTD for regularisation of existing unauthorised colonies. Pursuant to these advertisements, the respondent no.7 alongwith requisite documents applied for registration of the Abul Fazal Enclave, Part II, Extension GH Block (No. 1182) for regularisation in terms of the Regulations for Regularisation of Unauthorised colonies dated 24th March, 2008. The provisional registration certificate was issued to this colony as it fulfilled the requirements in Clause 4 of the Regulation.

6. A complaint relating to genuineness of this colony was made by one Sh. Rambir Singh Bidhuri, Ex.MLA. As a result, an inquiry was initiated and by an order dated 27th December, 2011, the provisional registration certificate issued to the colony was cancelled. The respondent no.7 challenged the cancellation by way of W.P.(C) 1340/2012 wherein, by an order dated 24th April, 2014, this court

directed the respondent no.1 to grant an opportunity of hearing to the respondent no.7 and to pass a reasoned order afresh.

7. The record placed by the respondent no.1 before us would show that pursuant thereto, the Joint Secretary (Unauthorised Colony) and Deputy Secretary (Unauthorised Colony) gave detailed hearing to the petitioner, officers of the DDA, Revenue Department and Geo Spatial Delhi Ltd. (GSDL). Only thereafter, by an order dated 2nd December, 2014, the authorities cancelled the order dated 27th December, 2011. As a result, the registration of the colony in question was restored.

8. Mr. Gautam Narayan, learned ASC for the GNCTD submits that the restoration has not been challenged by the petitioner.

9. In view of the above, this writ petition is completely misconceived and without any legal or factual basis. The same is dismissed.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

JANUARY 24, 2018/kr