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

+ **W.P.(C) 1741/2017**

JAGPAL SHARMA & ANR. Petitioners
Through Mr. Bahar U.Barqi, Advocate

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents
Through Mr. Arun Birbal & Mr. Sanjay Singh,
Advocates for Respondent/DDA
Mr. Siddharth Panda, Advocate for
Respondent Nos.2 & 3

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
23.07.2019

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1. The prayer in the present petition reads as under:

“(a) Quash the proceedings allegedly resulted into Award No. 95/1983-84 in respect of their properties/plot measuring 275 square yards bearing No. N-237 and measuring 2000 square yards bearing No. N-260 to 264 and 274 to 278 fallen in Khasra No. 306, Village: Okhla, New Delhi;

2. There are two Petitioners in the present petition namely Shri Jagpal Sharma, S/o Shri Data Ram Sharma (Petitioner No.1) & Mohd. Mukhtar, S/o Mohd. Yusuf (Petitioner No.2). It is stated that Petitioner No.1 purchased the property measuring 275 sq. yards at N-237 Batla House, Okhla, Jamia Nagar located in Khasra No. 306 in Village Okhla. It is stated that Petitioner No.1 purchased the said property from Mr. Naeem Ahmad,

who in turn purchased it from one Mr. Abrar Ahmad Ansari. It is stated that Mr. Ansari had purchased the property from Mr. Jafar Ali, who had purchased it from the recorded cultivators in the revenue record i.e Mr. Umardin, Noorudin and Mr. Mohd. Ayub, all sons of Shri Ahmad Namberdar. Copies of the said documents have been enclosed as Annexure P-2.

3. As far as Petitioner No.2 is concerned, he claims to have purchased Plot measuring 2000 square yards at Plot Nos. 260 to 264 and 274 to 278 at Batla House, Okhla, Jamia Nagar again situated in same Khasra No. 306 of Village Okhla. Both these plots admittedly stand acquired under the Land Acquisition Act, 1894 ('LAA') under Award No. 95/1983-84. The documents relied upon by Petitioner No.2 have been enclosed as Annexure P-3.

4. A perusal of these documents show that they are essentially a bunch of General Power of Attorneys (GPAs), Agreement to Sell and Purchase Receipts etc. None of these documents is registered. The dates of these documents are in February and April, 2001 and so on. In other words, the dates of these documents are either after the date of the Award or of the notifications under Sections 4 and 6 of the LAA. Clearly these transactions have no validity in the eye of law and also are in teeth of the Delhi Land (Restriction of Transfer) Act, 1972. It is therefore not possible to recognise the *locus standi* of such Petitioners in relation to the reliefs claimed in the present petition.

5. In para 5 of the petition, it is stated that the residents of Khasra No. 306 known as Batla House have formed a society known as Khalil Ullah Residential Welfare Society. It is stated in para 6 that the said society applied for 'regularisation' and that "fortunately the Respondents turned inclined to regularize the society where the properties of the present Petitioners are also situated". Enclosed with the petition is a copy of the provisional certificate of regularisation dated 17th September, 2008.

6. According to the Petitioners, the Respondents started demolition of the houses belonging to the members of the above society in September, 2014. This led the society to file WP(C) No. 5892/2014 in this Court. According to the Petitioners it is only when the Respondents appeared in the said petition that the Petitioners became aware that the land in various Khasra Numbers stood acquired under the above Award No. 95/1983-84 and two other awards 76/1986-87 and 19/1992-93. It is now claimed that the Respondents never complied with the various provisions of the LAA. Reference is made to the guidelines issued for regularisation and notification dated 12th December, 2007 issued by the Lt. Governor (LG), Government of NCT of Delhi in relation thereto.

7. It is stated that the society filed another WP(C) No. 6868/2014 on 29th September, 2014 for quashing the aforementioned Awards. Since in the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act') came to be enacted, the aforementioned WP(C) No. 6868/2014 was withdrawn on 26th April, 2016 with permission to file fresh petitions by the

individually aggrieved persons. Consequently, the present petition was filed on 20th February, 2017. It was listed for hearing on 28th February, 2017 when this Court passed an interim order directing parties to maintain status-quo as regards nature, title and possession of the subject land. This interim order was confirmed on 5th December, 2017.

8. In response to the notice issued in the petition, the LAC has filed a counter affidavit on 1st May, 2018 *inter-alia* stating that while possession of lands in certain Khasra Numbers was taken over and handed over to the DDA on 14th March, 1984 itself, possession of land in Khasra No. 476/306(03-03) could not be taken over due to a stay order passed by this Court in CWP 2578/1983. It is stated that the recorded owners of the land in question were Shri Ahmed S/o Chhote, Sohan Singh S/o Dharam Singh, Rampal S/o Kundan, Daulat Ram S/o Trilok Chand, Sh. Virumal S/o Darbanumal, Lila Ram S/o Champat Ram, Bundu S/o Kude, Shahbudin S/o Shibrati, Noora S/o Ranjit, Kadir S/o Nyader, Babu S/o Nyader, Smt. Nazariya W/o Nyader and Smt. Jaitun D/o Nyader. It is further stated that compensation in respect of the shares of Shri Ahmed, Shri Rampal and Shri Shahbuddin were forwarded to the Court of the learned Additional District Judge (ADJ) on 22nd February, 1985 & 21st March, 1985. In the counter affidavit of the LAC, it is pointed out that the Petitioners are not the recorded owners of the subject land and have placed no documents to show purchase of the lands by them from the recorded owners.

9. A separate counter affidavit has been filed by the Delhi Development Authority (DDA) on 13th May, 2018 confirming the averments in the

counter affidavit of the LAC. As far as compensation is concerned, it is pointed out that some part of the compensation in respect of the Khasra Numbers 306 was paid to the recorded owners and the remaining sum was deposited in the Court of the ADJ. A rejoinder has been filed by the Petitioners to both counter affidavits reiterating the grounds urged in the writ petition and maintaining that the Petitioners are entitled to relief under Section 24(2) of the 2013 Act.

10. At the outset, it must be noticed that even while the Petitioners do not have a convincing explanation to offer for the inordinate delay in approaching the Court for relief, the admitted position is that the property in question is a part of an unauthorised colony which is awaiting regularisation. On the Petitioners' own showing, the application by the Society for regularisation is pending consideration.

11. This Court has consistently held that properties that form part of an unauthorised colony awaiting regularisation would not be amenable to the relief under Section 24(2) of the 2013 Act. The legal position was explained by this Court in the following paragraphs in ***Mool Chand v. Union of India*** 2019 173 DRJ 595 (DB).

“48. The third aspect of the case is that the Petitioner admits that the land in question is part of an unauthorised colony. The very basis for seeking regularisation of an unauthorised colony is that it is located on land which belongs either to the public or to some other private parties. The Petitioners would therefore not have the locus standi to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularisation on the basis that

they are in unauthorised colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19th December 2018 in WP(C) No.190/2016 (*Harbhagwan Batra v. Govt. Of NCT of Delhi*) and order dated 8th January 2019 in WP(C) No.10201/2015 (*Gurmeet Singh Grewal v. Union of India*) negatived similar pleas by the Petitioners who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.

50. In a decision dated 10th January 2019 in W.P. (C) 3623 of 2018 (*Akhil Sibal v. Govt. of NCT of Delhi*) this Court observed in this context as under:

“18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premise on which such regularization is sought is that these constructions have been erected on public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets contradicted as some of them try to seek a declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable.”

12. Mr. Bahar U.Barqi, learned counsel for the Petitioners, sought to distinguish the above judgment in its applicability to the facts of the present case. According to him, the land acquisition proceedings here were invalid on account of the failure to issue notices to the occupants of the land in question prior to the finalisation of the impugned Award.

13. These pleas are plainly untenable in view of the decision of this Court in *Mool Chand vs. Union of India* (*supra*) where similar pleas stand rejected. In fact the above decision has been followed in other cases. Illustratively reference may be made to the decision dated 25th January, 2019 in W.P.(C) No.3438/2015 (*Krishna Devi v. Union of India*).

14. Consequently, the Court does not find any merit in this petition and it is dismissed as such. However, the dismissal of this petition will not come in the way of the Petitioners pursuing their case for regularisation in accordance with law. The interim order passed on 28th February, 2017 which stood confirmed on 5th December, 2017 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 23, 2019

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