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

% *Decided on: 2nd August, 2019*

+ **W.P.(C) 11601/2016 & C.Ms.No.45717/2016, 17012/2019**

ISRAIL KHAN NAMBERDAR Petitioner
Through: Mr.S.B.Sharma, Adv. with Mr.Ankit
Sharma, Adv.
Versus

NCT OF DELHI & ORS Respondents
Through: Ms.Sangita Rai, Adv. with
Mr.Pradeep Singh Tomar, Adv. for R-1 to 3.
Mr.Mukesh Gupta, Standing Counsel for SDMC.
Mr.Vishal Maan, Adv. with Mr.Shitiz Agnihotri,
Adv. for R-9.
Ms.Ramya Kutta, Adv. for R-11.

+ **W.P.(C) 1874/2018 & C.M.No.7783/2018**

SHAMSHUDDIN Petitioner
Through: Mr.Shekhar Gupta, Adv. with
Mr.Akash Gupta, Adv.

Versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through: Mr.Manshwy Jha, Adv. for
Mr.Sameer Vashisht, ASC for R-1,2,3&5.
Ms.Ramya Kutta, Adv. for R-6.
Mr.Mukesh Gupta, Standing Counsel for SDMC.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

: **D. N. Patel, Chief Justice (Oral)**

1. These public interest litigations have been preferred seeking directions to respondents No. 1 to 8 to take away lands from the possession

of respondents No.9 to 11 and hand over the same to Gram Sabha, Village Chandan Hulla for public purpose. Several lands and khasra numbers have been mentioned in the prayer clause of the W.P.(C) No.11601/2016. For ready reference, the prayers in W.P.(C) No.11601/2016 are extracted hereunder:-

“A. Pass an appropriate order issuing the writ thereby the respondent no. 1-8 be directed to take the land as per law from the farm house owner i.e. respondent no. 9 in khasra no.452/2 (area 2-10) as per site plan shown red color attached herewith for the use of public purpose. The respondent no. 1-8 be further directed to take land from the other farm house owners mentioned in the petition and be handed over to the gram sabha village Chandan Hulla for public purpose. The respondent no. 1-8 be further directed to get release the land from respondent no. 10-11 which was to be handed over to the gram sabha village Chandan Hulla. In khasra no. 533/5 (area 3-4), khasra no. 531/1 (area 6-9) of respondent no.10 Lala Ram Farm House and khasra no. 100/4 (area 0-05), khasra no.101/2 (area 0-05) of respondent no. 11 Uppal Farm and other land as per the Consolidation Scheme from the land owners/farm house owners.”

2. So far as prayer in W.P.(C) No.1874/2018 is concerned, the lands which are referred to in this writ petition are also mentioned in W.P.(C) No.11601/2016.

3. Learned counsel appearing for the petitioners in both the aforesaid writ petitions have taken this Court to various annexures and submitted that looking to the revenue records, the lands in question belong to respondent No.7, that is, Gaon Sabha of Village Chandan Hulla, which is also governed by respondents No.1 to 3.

4. Learned counsel appearing for respondents No.9 to 11 submitted that

they are claiming to be the owners of the land/property in question.

5. Thus, it appears that the very ownership and possession of the lands which are mentioned in the aforesaid prayer are to be taken away from respondents No.9 to 11 and to be handed over to respondent No.7.

6. Thus, it appears that highly disputed questions of fact, regarding ownership of several lands are involved in these writ petitions. Taking away the lands from possession of one party and handing it over to another requires cogent and convincing evidences, to be led before the lowest Court as provided under Section 15 of the Code of Civil Procedure, 1908. Moreover, also looking into the highly disputed questions of facts, we see no reason to entertain these writ petitions while exercising our powers under Article 226 of the Constitution of India.

7. As we are not entering into the merits of the case, we are not going much into the arguments canvassed by the counsel for the parties about so called revenue entries. However, it has to be kept in mind that mere revenue entries are not a proof of ownership of the land. Suffice it to say that ownership has to be proved by cogent and convincing evidences to be led before the trial Court.

8. With these observations, these writ petitions are dismissed along with the pending applications.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 02, 2019

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