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

+ **W.P.(C) 11543/2018 & CM APPL. 44675/2018**

PARVESH PANDIT A. K. A RAM PARVESH Petitioner

Through: Mr. Anukrit Prateek and Mr.
Satasmitha, Advocates

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Sachin N.Advocate
Mr .Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates
Mr. Pratyush Miglani and Ms. Hiba
Rabia Shah, Advocates for R-1
Mr. Arun Birbal and Mr . Sanjay
Singh, Advocates for DDA

+ **W.P.(C) 11549/2018 & CM APPL. 44692/2018**

NEELAM DEVI Petitioner

Through: Mr. Anukrit Prateek and Mr.
Satasmitha, Advocates

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Pratyush Miglani and Ms. Hiba
Rabia Shah, Advocates for R-1
Mr. Arun Birbal and Mr. Sanjay
Singh, Advocates for DDA
Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha and Mr. M.S. Akhtar,
Advocates for R-2

+ **W.P.(C) 11553/2018 & CM APPL. 44697/2018**

ASHOK KUMAR Petitioner

Through: Mr. Anukrit Prateek and Mr.
Satasmitha, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Pratyush Miglani and Ms. Hilba
Rabia Shah, Advocates for R-1
Mr. Arun Birbal and Mr . Sanjay
Singh, Advocates for DDA
Mr. Siddharth Panda, Advocate for R-
2

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W.P.(C) 11559/2018 & CM APPL. 44730/2018

MITHAI LAL

..... Petitioner

Through: Mr. Anukrit Prateek and Mr.
Satasmitha, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Chiranjeev Kumar, Advocate for
R-1/IOI
Mr. Rajneesh Sharma, Advocate for
R-2
Mr. Sanjeev Sagar, Advocate for
DDA with Ms. Nazia Parveen,
Advocate for R-3/DDA

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W.P.(C) 11566/2018 & CM APPL. 44762/2018

NAFIS AHMED A.K.A NAFEEES AHMAD

..... Petitioner

Through: Mr. Anukrit Prateek and Mr.
Satasmitha, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Pratyush Miglani and Ms. Hilba
Rabia Shah, Advocates for R-1
Mr. Arun Birbal and Mr . Sanjay

Singh, Advocates for DDA
Mr .Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates

+ **W.P.(C) 11590/2018 & CM APPL. 44828/2018**
CHALITAR RAI Petitioner
Through: Mr. Anukrit Prateek and Mr.
Satasmitta, Advocates

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Pratyush Miglani and Ms. Hilba
Rabia Shah, Advocates for R-1
Mr. Arun Birbal and Mr . Sanjay
Singh, Advocates for DDA
Mr. Sachin N. Advocate for R-2
Ms. Ruchika Rathi and Mr. Karanjot
Singh, Advocates
Ms. Beenashaw N. Soni, Advocate

+ **W.P.(C) 11595/2018 & CM APPL. 44830/2018**
RANI DEVI UPADHYAY Petitioner
Through: Mr. Anukrit Prateek and Mr.
Satasmitta, Advocates

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Pratyush Miglani and Ms. Hilba
Rabia Shah, Advocates for R-1
Mr. Arun Birbal and Mr . Sanjay
Singh, Advocates for DDA
Mr .Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates

+ **W.P.(C) 11597/2018 & CM APPL. 44834/2018**
ANIL KUMAR UPADHYAY Petitioner

Through: Mr. Anukrit Prateek and Mr.
Satasmitta, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Pratyush Miglani and Ms. Hilba
Rabia Shah, Advocates for R-1
Mr. Arun Birbal and Mr . Sanjay
Singh, Advocates for DDA
Mr .Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

ORDER
20.03.2019

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Dr. S. Muralidhar, J.:

1. All these petitions arise out of a common set of facts and seek similar reliefs and therefore are being disposed of by this common order. However, each of the petitions was heard separately.

2. For convenience, the facts in the lead petition i.e. W.P (C) 11543/2018 are discussed. The Petitioner Shri Parvesh Pandit, states that he is the 'true owner' and in possession of land comprising plot 77A, measuring 50.75 sq.yards, out of Khasra No. 37/20 in total area admeasuring 5 bighas and 01 biswas situated in revenue estate of Village Najafgarh, Tehsil & District Delhi. He states that the abadi in the area is known as 'Dwarka Vihar'.

3. It requires to be noted at the outset that 'Dwarka Vihar' forms part of the list of unauthorised colonies placed on the website of the Department of Urban Development, Government of NCT of Delhi (Delhi.Gov.in). It is at Serial No.77 with a Provisional Registration No. 82. This fact that Dwarka Vihar is an unauthorised colony is, however, not disclosed in any of these petitions.

4. The Petitioner states that the above land was transferred to him through a General Power of Attorney (GPA). The copy of the GPA dated 24th March, 1995 enclosed with the petition shows that it was executed by one Ram Kumar Sharma nominating the Petitioner as his lawful General Attorney. It is an unregistered document. Also enclosed with the petition are an Agreement to Sell and an affidavit executed by the same Ram Kumar Sharma on the same date. There is a receipt for Rs. 17,700/- executed by the Petitioner.

5. The above documents are obviously not documents that can convey valid title. The Court cannot recognise the 'true' ownership of the petitioner on the basis of such documents. Be that as it may, the fact that the aforementioned unauthorised colony figures in the list put up on the website of the Department of Urban development, GNCTD indicates that an application was made by the Residential Welfare Association (RWA) of the said colony and the Petitioner was a member thereof.

6. In respect of same land, a notification under Section 4 of the Land

Acquisition Act, 1994 was issued on 7th April, 2006 followed by declaration under Section 6 on 4th April, 2007 and Award No. 05/2008-09/SW was passed in 2008.

7. The Petitioner is seeking the relief of deemed lapsing of land acquisition proceedings under Section 24(2) of 2013 Act claiming that possession of the land in question is with the Petitioner and that no compensation has been paid. However, this Court in a long line of orders including ***Mool Chand v. Union of India 2019 (173) DRJ 595[DB]*** has been declining the relief under Section 24 (2) of 2013 Act where the properties in question forms part of the unauthorized colony. In ***Mool Chand***, the Court explained the legal position thus:

“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.”

8. As far as the remaining petitions are concerned, the facts are no different. Learned counsel for the petitioner sought to urge that in some of the petitions viz. W.P.(C)11559/2018 (*Mithai Lal v. Union of India*), W.P. (C) No. 11549/2018 (*Neelam Devi v. Union of India*), W.P.(C) 11590/2018 (*Chalitar Rai v. Union of India*) and W.P.(C)11553/2018 (*Ashok Kumar v. Union of India*) the Award in question acknowledges the claim of that Petitioner. Be that as it may, the fact still remains that all these Petitioners are similarly placed on account of the following features:

i) Each of them has claimed ownership on the basis of an unregistered GPA, Agreement to Sell, Affidavit, receipt etc. none of which can be recognized as documents conferring valid title.

(ii) Since none of these petitioners are the original and ‘true owners’ of the land in question, it is highly doubtful that the Petitioners’ are entitled for compensation in terms of the Award under the LAA.

iii) On the land claimed by each of these Petitioners there is a built up structure which forms part of the unauthorised colony “Dwarka Vihar” which has been granted a provisional registration No. 82 as is evident from the list on the website of the GNCTD.

9. Consequently, the decision of this Court in *Mool Chand v. Union of India* (*supra*) is squarely applied to the present petitions. However, as indicated in this Court’s order dated 25th January, 2019 in W.P.(C) 73438/2018 (*Krishna Devi v. Union of India*), the dismissal of these petitions will not come in the way of the Petitioners pursuing the regularisation of the colony in question.

10. For the aforementioned reasons, the prayers in these petitions cannot be granted and the petitions are accordingly dismissed. The interim orders, if any, are vacated. The applications are dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 20, 2019

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