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

Judgement reserved on 14.01.2020

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Judgement pronounced on 19.02.2020

+ **W.P.(C) 925/2015**

PUSHPA WANTI & ORS.

..... Petitioners

Through : Mr. J.K. Bhola and Mr. Vishal
Kumar, Advs.

versus

DDA

..... Respondent

Through : Mr. Pawan Mathur, Standing Counsel
for DDA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J.:

Preface:-

1. This writ petition is directed against the order dated 24.02.2014 passed by the respondent i.e. the Delhi Development Authority (hereafter referred to as "DDA").

2. The principal and the only grievance of the petitioners is that their request for upgradation for allotment of a plot under category A of the Gadgil Assurance Scheme (in short "the scheme") in block 8A, WEA, Karol Bagh, New Delhi, has been rejected.

Background:-

3. The petitioners have approached this Court for the third time.

3.1. In the first instance, they had instituted a writ petition which was numbered as W.P. (C) No. 9024/2007. This writ petition was disposed of by

this Court on 04.07.2012. *Via* this order, the petitioners were directed to make a comprehensive representation to the DDA, with a corresponding direction to the DDA, to dispose of the same within twelve weeks.

3.2. Notably, this direction came to be passed on account of the fact that the petitioners had taken a stand in the rejoinder (based on certain documents) which, according to the Court, the DDA had not had a chance to rebut.

3.3. Consequent to the aforementioned direction issued by this Court, the petitioners made a representation on 17.07.2012 which was disposed of by the DDA *vide* order dated 17.04.2013.

3.4. In this order i.e. order dated 17.04.2013 passed by the DDA, it was noticed that the petitioners had produced before the authority that had passed the order i.e. Director (Lands), the following documents in original.

- (i) The date of birth certificate of Shri Madan Lal (who is the father of petitioner No. 2 to 7 and husband of Smt. Pushpa Wanti). This certificate showed Shri Madan Lal's date of birth as 11.01.1930 and the place of his birth as Multan (now, in Pakistan).
- (ii) Copy of Ration Card dated 20.07.1950 which bore the name of Shri Madan Lal.
- (iii) Notice of payment/assessment of damage notice dated 07.01.1965, issued by DDA/COD. The period under this notice spanned from 01.01.1952 till 31.03.1964
- (iv) An unsigned census slip.
- (v) Receipts for payment of damages issued by the DDA between 1965 and 1985.
- (vi) Demolition Slip dated 30.03.2000

3.5. Furthermore, the aforementioned order i.e. order dated 17.04.2013 also adverted to the fact that petitioner No. 1 (i.e. Smt. Pushpa Wanti) had been recommended for allotment of a plot in category B under the Scheme and that her husband's request for upgradation to category A was rejected vide DDA's letter dated 04.11.1980 on the following ground:

"....that your request for placing you under Category 'A' cannot be acceded to because the occupation of site in question is post August 1950. However, you have been placed in Category 'B' by the Allotment Committee....."

3.6. This apart, in the very same order, it was pointed out that the petitioners had failed to produce the following documents:

- (i) Refugee Registration Certificate in the name of Shri Madan Lal i.e. the husband of petitioner No. 1
- (ii) Voter's list of 1951 showing the name of Shri Madan Lal.
- (iii) Duly signed and dated census slip

3.7. As noted hereinabove, the census slip which was produced by the petitioners was unsigned and undated.

3.8. In the order, a reference was made to the fact that Shri Mandan Lal's father i.e. one Late Shri Ram Dass had two wives, namely, Smt. Virawali and Smt. Lajwanti. The order went on to say that Late Shri Ram Dass, from his wedlock with Smt. Virawali, had two sons i.e. Shri Darshan Lal and Shri Madan Lal and that from his wedlock with Smt. Lajwanti he had one son, namely, Shri Suraj Prakash.

3.9. The order adverted to the fact that Smt. Lajwanti had succeeded to the property of Late Shri Ram Dass who was allotted a plot under the Scheme and that she, in turn, had executed a registered will in favour of Shri Suraj Prakash.

4. The order concluded by advertng to the fact that it is on account of this reason Shri Madan Lal, the husband of petitioner No. 1, was not issued a separate Refugee Registration Certificate although he may have migrated alongwith his father to India upon partition.

4.1. It was reasoned in the order that the Scheme envisaged allotment of a plot to the “*family head*” and not to all members of the family. In this behalf, a reference was made to the property numbered as T-5335/8A, WEA, Karol Bagh.

4.2. It was, thus, held that the petitioners could not be considered for upgradation to category A; as was conveyed to them *vide* letter dated 04.11.1980. Curiously, the order also went on to state that the legal heirs of Shri Madan Lal (i.e. the petitioners) were claiming rehabilitation on the basis of the same property *qua* which petitioner No. 1’s father-in-law i.e. Late Shri Ram Dass had been allotted a plot even though allotment under category B had already been recommended *qua* petitioner no. 1.

4.3. Being aggrieved, the petitioners, once again, approached this Court by way of a writ petition which was numbered as W.P. (C) 5533/2013. This writ petition was disposed of *via* order dated 03.09.2013. The Court, after noting the operative directions contained in the DDA’s order dated 17.04.2013, concluded as follows:

“However, this Court is of the view that the petitioners’ placement in Category-A had to be decided only on the basis as to whether petitioners were in occupation of site in question prior to August, 1950 or not.

In the present instance, the petitioners have relied upon a ration card dated 20th July, 1950 issued in favour of petitioner No.1’s husband, i.e., prior to the cut off date. However, in the impugned order, the Director (Lands) had not dealt with the said

document at all.

Consequently, the impugned order dated 17th April, 2013 is set aside and the matter is remanded back to the Director (Lands) to consider the petitioner's fresh representation in the light of the ration card dated 20th July, 1950 issued in favour of petitioner No.1's husband along with documents issued by the Deputy Commissioner of Delhi dated 14th August, 1963 as well as the Census of Squatters which indicates that the petitioners' occupation was of 1948.

The petitioners are directed to file a fresh representation along with all relevant documents within a period of two weeks.

The Director (Lands) is directed to decide [sic: decide] the petitioners representation by way of a speaking order within a further period of twelve weeks.

The petitioner's are directed to appear before the Director (Lands) on 30th September, 2013 at 3 p.m.

With the aforesaid observations and directions, the present writ petition stands disposed of."

4.4. As directed, the petitioners filed a fresh representation which was thereafter disposed of *via* the impugned order dated 24.02.2014.

5. It is in this background that the petitioners, as noticed above, have instituted the present writ petition.

Submission of Counsel:-

6. Arguments on behalf of the petitioners have been advanced by Mr. J.K. Bhola, Advocate, whereas on behalf of the DDA, submissions have been made by Mr. Pawan Mathur, Advocate.

6.1. Mr. Bhola has, broadly, submitted that the controversy in issue falls in a narrow compass i.e. as to whether or not the petitioners were entitled to be upgraded to category A under the Scheme based on a determination whether they were occupants of the subject hutment prior to 15.08.1950.

6.2. Mr. Bhola submitted that the controversy, if any, concerning the eligibility of petitioners under the Scheme stood concluded in their favour, in view of the fact that they had already been considered fit for allotment of a plot under category B. Therefore, according to Mr. Bhola, all that the Court had to consider was (which was also the direction issued by this Court in the earlier round on 03.09.2013, when W.P. (C) 5533/2013 was disposed of) as to whether or not the petitioners occupation of the subject hutment preceded 15.08.1950.

6.3. As per Mr. Bhola, the petitioners' assertion that their occupation of subject hutment preceded 15.08.1950 is supported by the following documents:

- (i) The ration card issued in favour of Shri Madan Lal dated 20.07.1950.
- (ii) The Deputy Commissioner's certificate dated 14.08.1963, which alluded to the fact that Shri Madan Lal had been carrying on the vocation of a goldsmith since 1947.
- (iii) The squatters census slip which showed that Shri Madan Lal had been in occupation of the subject hutment in Block 8A, WEA, Karol Bagh, since 1948.

6.4. Besides this, Mr. Bhola also relied upon the receipts, which, according to him, evidenced payment of damages to the concerned Municipal Corporation since 1952.

7. On the other hand, Mr. Mathur relied upon the impugned order to resist the relief sought for in the writ petition.

7.1. Mr. Mathur, based on the impugned order contended that the genuineness of the ration card produced by the petitioner was in doubt. For this purpose, he relied upon the form filed by Shri Madan Lal on 15.11.1968

where the number of the ration card was given AJ-341450. This number was sought to be cross-referenced with the number given on the ration card produced by the petitioners. The number given on the ration card is 141590.

7.2. Besides this, Mr. Mathur also contended that the Deputy Commissioner's certificate on which the petitioners had placed reliance was of no use as it only alluded to the fact that Shri Madan Lal had been carrying on the vocation of a goldsmith since 1947.

7.3. Furthermore, Mr. Mathur also referred to the communication dated 26.11.2013 submitted by the North Delhi Municipal Corporation (in short "NDMC") to demonstrate that the document tilted as "census of squatters", according to NDMC, had no relevance.

7.4. It was contended that NDMC had not been able to verify the document since it pertained to a period *qua* which it did not have the records.

7.5. This apart, Mr. Mathur laid emphasis on the fact that all along Shri Madan Lal had been claiming that the hutment in lieu of which he was seeking allotment of a plot under the Scheme was numbered as T-5335/2, whereas in the affidavits filed on 31.07.1972 and 05.03.1979 his address has been disclosed as T-5335.

7.6. Furthermore, Mr. Mathur relied upon the survey list generated by the DDA concerning unauthorized squatters in Block 8A, WEA, Karol Bagh, on 11.05.1981, to demonstrate that in the subject hutment No. T-5335/2, one, Shri Nanak Chand resided and not Shri Madan Lal.

7.7. Furthermore, according to Mr. Mathur, it is only after the death of Shri Madan Lal on 02.11.1999, the petitioners have raked up the claim

which lay dormant since 04.11.1980. Mr. Mathur submitted that there was no explanation for delay between 1980 and 1999.

Analysis and Reasons: -

8. As was noticed right at the beginning, the principal grievance and, in fact, the only grievance of the petitioners is with regard to the DDA refusing to upgrade their category from “B” to “A”. This was also the scope of the remand order by this Court on 03.09.2013 in W.P. (C) 5533/2013. The operative directions have already been extracted by me in paragraph 4.3 above.

8.1. However, the DDA, on remand, based on a fresh representation filed by the petitioners *qua* which opportunity was given by this Court *vide* order dated 03.09.2013 has strayed into the arrears which were not strictly within the ambit of the remand order.

8.2. That being said, it could perhaps be argued by the DDA that while ascertaining the petitioners right for upgradation of category it was empowered to look into their eligibility for allotment of a plot.

9. In my view, this stand of the DDA would have to be rejected for the reason that it flies in the face of its own communication dated 04.11.1980. This communication was addressed by DDA to the deceased Shri Madan Lal. The said communication reads as follows:

“Dear Sir,

With reference to your representation dated Sep. 80 on the aforecited subject I am to inform you that your request for placing you under Category-A cannot be acceded to because your occupation of the site in question is post-August, 1950. However, you have been placed in Category-B, by the Allotment Committee.”

(*emphasis is mine*)

9.1. As would be evident upon a plain reading of this communication, the only point of dispute between the deceased Shri Madan Lal and the DDA was concerning the category in which he was slotted. According to the DDA, the deceased Shri Madan Lal had come to occupy the subject allotment "Post-August, 1950". Therefore, the tenability of the impugned order dated 24.02.2014 would have to be examined in the background of this marker.

10. Mr. Mathur has tried to contest the assertions of the petitioners that they were in occupation of the subject hutment prior to 15.08.1950 by alluding to the following documents and aspects: -

(i) First and foremost, it is stated that the ration card is illegible. Incidentally, this is also one of the observations made in the impugned order dated 24.02.2014

(i)(a) In furtherance of this objection, it is also stated that the number given on the ration card produced by the petitioners which was 141590 is discrepant when cross referenced with the form submitted to the DDA on 15.11.1968. According to Mr. Mathur, the ration card number given in the form is AJ-341450.

(ii) The second objection taken by Mr. Mathur is with regard to the document titled "Census of Squatters". It is Mr. Mathur's contention that NDMC was unable to vouch for the veracity of this document.

(iii) The third objection taken by Mr. Mathur is that the form dated 15.11.1968 gave the hutment number as 8A/T-5335 and not 8A/T-5335/2.

(iii)(a) In support of this objection, reference was also made to the two affidavits filed by deceased Shri Madan Lal dated 31.07.1972 and 05.03.1979 wherein he had described his hutment as T/5335, 8-A Block,

WEA Karol Bagh, New Delhi.

(iv) Fourthly, Mr. Mathur stated that the name of the deceased could not be found in the Voters list of June 1951. In support of his plea, reliance was also placed by Mr. Mathur on the surveys conducted by the DDA in 1981 and 1998.

(iv)(a) According to Mr. Mathur, against the hutment where the deceased Shri Madan Lal claimed he resided i.e. T-5335/2, the survey list showed that the resident was one Mr. Nanak Chand. The argument, thus advanced, was that the claim for allotment of plot under the Scheme lodged by the deceased Shri Madan Lal was false.

(iv)(b) In addition to the survey list, reference was also made to the death certificate produced concerning the deceased Shri Madan Lal wherein his address was given as E-2/129-A, Shastri Nagar, New Delhi.

(v) The fifth objection was based on the Election card wherein as on 01.01.1994 the deceased Shri Madan Lal's age was shown as 59 years. It was stated that in the 1961 electoral rolls generated for Delhi, the deceased Shri Madan Lal's age was shown as 26 years.

(v)(a) It was, thus, contended that if the death certificate concerning Shri Madan Lal and the aforementioned documents were taken into account then, in 1947, he would have been aged between 12 and 13 years.

10.1. From this, Mr. Mathur, sought, to conclude (as was also concluded in the impugned order) that the deceased Shri Madan Lal would have been residing with his father in the hutment numbered as T-5335 and not in a separate hutment.

11. I will deal with each of the assertions in seriatim.

11.1. Insofar as the first objection is concerned that the ration card produced was illegible, I may only indicate that the impugned order records that the original ration card was produced before the Director (Lands), DDA who passed the impugned order. The photocopy which is available on record, though dim, clearly sets out the name of the person to whom it is issued, the date of issuance, and the number.

11.2. A perusal of the details given therein shows that the ration card was issued in the name of the deceased Shri Madan Lal; the date of issuance is given therein as 20.07.1950; and the number of the ration card is 141590. Therefore, the observations in the impugned order and the argument of Mr. Mathur that the details given in the ration card are not legible, to say the least, are not accurate.

11.3. The other argument made *qua* the purported unreliability of the ration card is based on the number of the ration card given in the form filed by the deceased Shri Madan Lal which is dated 15.11.1968 and is titled “***Occupied any public land before 15th August***”.

11.4. I may, for the moment, extract the entries given in the form which may be relevant for dealing with the present objection as well as the other objections:-

“OCCUPIED ANY PUBLIC LAND BEFORE 15th AUGUST

XXX	XXX	XXX
<u>I. PARTICULARS</u>		
XXX	XXX	XXX
1. Name		<u>Sh. Madan Lal</u>
XXX	XXX	XXX
7. Ration Card No. of 1950 (please attach attested copy of the same)		<u>AJ-341450</u>

II. PARTICULARS OF THE OCCUPIED LAND

11.5. The entry made against Sl. No. 7 would show that the ration card number is shown as AJ-341450.

11.6. It is argued by Mr. Mathur that because the ration card number available with the deceased Shri Madan Lal in the year 1968 was AJ-341450, the earlier ration card would have to be discarded.

12. To my mind, this objection is not sustainable. Ration card numbers often change after a period of time. The original ration card, as noted hereinabove, was issued in the name of the deceased Shri Madan Lal and not in the name of his father. The original ration card was produced by the petitioners before the Director (Lands), DDA. In my view, this objection is unsustainable.

12.1. As is evident from the entries extracted hereinabove from the form, deceased Shri Madan Lal had been paying damages since 01.01.1952. The DDA, up until now, has not placed anything before me which would show that the form, which is obviously an application for establishing that the deceased Shri Madan Lal had been occupying the hutment prior to 15.08.1950, had been rejected.

13. This takes me to the other objection which is the purported discrepancy in the hutment number. As noted above, against the entry requiring the details of "Municipal House number", Late Shri Madan Lal had given the hutment number as 8A/T-5335.

13.1. There is no dispute that 8A is the Block number, however, based on the fact that the hutment number is given as T-5335, it is contended that Late Shri Madan Lal falsely claimed that he resided in hutment number T-5335/2, as adverted to hereinabove.

13.2. In support of this plea, reliance is placed on the two affidavits filed by the deceased Madan Lal which are dated 31.07.1972 and 05.03.1979 wherein he has averred that he resided in T-5335.

13.3. It is important to note that in both the affidavits the deceased Shri Madan Lal made the following averment:-

“1. That I did not get any rehabilitation benefit from the Government or any other agency constituted for this purpose and that I or my wife or any of my dependent relations including unmarried children do not possess any plot or house in the urban limits of Delhi.”

13.4. It was based on the contents of the form dated 15.11.1968 and the affidavits dated 31.07.1972 and 05.03.1979 that the DDA, it appears, accepted the claim of the deceased Shri Madan Lal that neither he nor his wife or any of his dependent relations, which include his unmarried children, had any plot or house in the urban limits of Delhi. Therefore, the argument of Mr. Mathur that the deceased Shri Madan Lal was claiming allotment of plot when his father Late Shri Ramdass had already been allotted a plot against hutment No. T-5335 is untenable.

13.5. As noticed hereinabove, the DDA itself concedes that it found petitioner No. 1 i.e. the wife of deceased Shri Madan Lal suitable for allotment of a plot in the category B.

14. The attempt of Mr. Mathur to establish that Late Shri Madan Lal did not reside in hutment numbered as T-5335/2 by referring to the entry made against Sl. No. 146 in the survey list of unauthorized squatters concerning Block 8A, WEA, Karol Bagh conducted on 01.05.1981, to my mind, is completely untenable. The reason is as follows:-

14.1. A perusal of the survey list shows that, apparently, there were numbers given to the block of huts with sub-numbers.

14.2. Furthermore, wherever the family unit resided in one hutment, they were bunched together and the category, if any, in which they were put for allotment of the plot was also adverted to in the list. However, if a part of the family was living separately, their details were put in the list independent of the unit which had been considered for allotment of a land. This was true for several families including the family of Late Shri Ramdass and the deceased Shri Madan Lal as well.

14.3. By way of an example, some details as per the survey list of 01.05.1981 are set forth hereafter:-

Serial No.	Name with father's name/husband's name	T.No .	Category if any decided/Remarks	Original	Present
xxx	xxx	xxx	xxx	xxx	xxx
16	Krishan Lal, S/o HiraNand	5365	A	29 Sq. Yds.	29 Sq. Yds.
17	Lal Chand, S/o Hira Nand	5365	A	29 Sq. Yds.	24 Sq. Yds.
18	Tilak Raj, S/o Amir Chand	5363	A	68 Sq. Yds.	70 Sq. Yds.
19	Shashi Daul, S/o Sh. Tilak Raj	5363			
20	Sunder Shyam, S/o Sh. Tilak Raj	5363			
21	Harish Chander, S/o Tilak Raj	5363			
xxx	xxx	xxx	xxx	xxx	
23	Chuni Lal, S/o Fateh	5360	A	90Sq. Yds.	90Sq. Yds.

	Chand				
24	Nand Paul, S/o Shri Chunilal	5360			
25	Kishori Lal, S/o Chuni Lal	5360			
xxx	xxx	xxx	xxx	xxx	
29	Deputy Lal, S/o Shivaji Lal	5355	A	58Sq. Yds.	19Sq. Yds.
30	Madan Lal, S/o Shivaji Lal	5355			
xxx	xxx	xxx	xxx	xxx	
33	Mohan Lal, S/o NiranjannDass	5398			
34	Sat Paul, S/o Niranjan Dass	5398	A	35Sq. Yds.	35Sq. Yds.
xxx	xxx	xxx	xxx	xxx	
46	Ram Lal, S/o Shri Mela Ram	5349	A	50Sq. Yds.	50Sq. Yds.
47	Balbir, S/o Ram Lal	5349			
xxx	xxx	xxx	xxx	xxx	
51	Ram Lal, S/o Shri Devi Dayal	5353	A	25RSq. Yds.	25+35Sq. Yds.
52	Om Prakash S/o Ram Lal	5353		35 Com.Sq. Yds.	R+CSq. Yds.
53	Jugal Kishore S/o Om Prakash	5353/2			
xxx	xxx	xxx	xxx	xxx	
61	Smt. Lajwanti, W/o Ram Dass	5335	A	29Sq. Yds.	29Sq. Yds.

62	Darshan Lal, S/o Ram Dass	5335		
xxx	xxx	xxx	xxx	xxx
77	Niranjan Singh, S/o Prabh Singh	5327	A	120 Sq. Yds. 60 Sq. Yds.
78	Smt. Bhagwanti, Wd/o Prabh Singh	5327		
79	Madan Lal, S/o Ram Dass	5335	B	
xxx	xxx	xxx	xxx	xxx
142	Bihari Lal, S/o Radha Mal	5334/ 4		
143	Deputy Lal, S/o Charan Singh	5334/ 3		
144	Tilak Raj, S/o Deputy Lal	5334/ 5		
145	Shanti Devi, W/o Kasturi Lal	5334/ 3	A	33 Sq. Yds. 33 Sq. Yds.
146	Nanak Chand, S/o Makhan Singh	5335/ 2		

Note: Madan Lal at Sl. no. 79 is the h/o petitioner no. 1. Nanak Chand at Sl. No. 146 is one who is shown at Sl. 54 in the Survey list of 28.05.1998.

14.4. While on this aspect, I may advert to the fact that there is also on record a survey list of 28.05.1998 prepared by the DDA. This is a handwritten list. In this list, at Sl. No. 59 against Nanak Chand's name, the hutment number is given as 5335/2.

14.5. Mr. Bhola on behalf of the petitioner says that this list is difficult to rely upon in view of the fact that except for the name of the purported occupant other details such as parentage are not given.

14.6. By way of an example and, to demonstrate the possibility of an error creeping in, my attention has been drawn to Sl. No. 58 where against hutment No. 8A/T-5335, the occupant's name is shown as Smt. Swarana. Likewise, against Sl. No. 60, wherein hutment number is shown as 8A/T-5335/1, the occupant's name is once again shown as Smt. Swarna. Against Sl. Nos. 61, 62 and 63, the hutment number is given as 8A/T-5335 and the name of the occupants are Sh. Darshan Lal, Smt. Raj Kumari and Sh. Suraj Prakash respectively.

15. Based on the record, one can perhaps say that Sh. Darshan Lal and Sh. Suraj Prakash are the progenies of Late Shri Ramdass. It is not known as to whether Smt. Raj Kumari is also a relative of Late Shri Ramdass. The name Shri Madan Lal appears in two places i.e. at Sl. No. 54 and Sl. No. 84 wherein hutment numbers are given as 8A/T-5334 and 8A/T-5355 respectively. It is not known as to whether they are the same persons or the different persons.

15.1. This position obtains also *vis-a-vis* entry made against Sl. No. 102 and Sl. No. 108 wherein, though, the hutment numbers are different i.e. 8A/T-5369 and 5398, the name is similar i.e. Mohan Lal.

15.2. I may also indicate that the name Smt. Raj Kumari finds reference against Sl. No. 98 wherein the hutment number is given as 8A/T-5366. Similarly, against Sl. No. 110, the hutment number is given as 8A/T-5366 but the name of the occupant is given as Baldev Raj. This document seems

to move away, to some extent, if not completely, from the position given in the earlier survey list of 01.05.1981 generated by the DDA.

15.3. In my opinion, the fact that the deceased Shri Madan Lal like the other occupants in the survey list of 01.05.1981 which is the DDA's own document was shown separately wherein his category classification was also disclosed, applying the test of preponderance of probability one could conclude that his claim was separate from the claim made by Late Shri Ramdass who had been found suitable for a plot in Category A.

15.4. The other son of Late Shri Ramdass i.e. Shri Darshan Lal, who was perhaps staying with his father Late Shri Ramdass, was not found suitable and, hence, was not considered for allotment of a plot in any category.

15.5. This, however, was not the position *qua* Shri Madan Lal i.e. the other son of Late Shri Ramdass who, as per the survey list, was found suitable for allotment of a plot, *albeit*, in category B.

16. Therefore, in my view, nothing much turns on the fact that the deceased Late Shri Madan Lal may have, in some place, indicated the hutment number as T-5335/2. This is more so as the DDA has not been able to refute the fact that the Late Shri Madan Lal had been paying damages since 1951. This aspect, as noted above, has not only been disclosed in the form filed by the Late Shri Madan Lal on 15.11.1968 but is also supported by the receipts filed in that behalf. The DDA has been collecting damages from Madan Lal separately and not as part of the family of Late Shri Ramdass.

16.1. Thus, having collected damages separately, to my mind, the DDA cannot turn around and say that Shri Madan Lal was not living separately

from Late Shri Ramdass, and that the plot having been allotted to Late Shri Ramdass, the deceased Shri Madan Lal was not entitled to separate plot.

17. For the very same reason, I am not impressed with the objection taken on behalf of the DDA that the petitioners name does not appear in the voters list of 1951 or that his age in and about 1950 would be 12-13 years.

17.1. The Court can take judicial notice of the fact that migration of people from Pakistan to India in 1947 and their resultant rehabilitation presented challenges not only for the administration but also for those who were seeking refuge in India. The date of births were entered often based on guess work. Furthermore, people of that generation not only started working earlier but also married at a much younger age.

17.2. The fact that the Deputy Commissioner's certificate dated 14.08.1963 adverts to the fact that the deceased Shri Madan Lal was a resident of hutment number T-5335/2, situate in Block 8-A, W.E.A., Karol Bagh, New Delhi, was a *bona fide*, displaced goldsmith, and had been working as one, since 1947 would have to be given weight with regard to not only his refugee status, and the place of his residence (i.e. T-5335/2) but also qua his vocation and the fact that he had been engaged in, independently, eking out his livelihood since 1947.

18. On the preponderance of probability, and based on the material placed on record, one would have to agree with the petitioners that they were squatters of the public land prior to 15.08.1950 and that their branch of the family was separate from the Late Shri Ramdass.

Conclusion: -

19. Therefore, for the foregoing reasons, I find merit in the contentions of the petitioners that the impugned order is contrary to the record and, in a

certain sense, goes beyond the remit of the remand order dated 03.09.2013. Accordingly, the impugned order is quashed.

20. The petitioners will be upgraded to category “A” and, accordingly, will be given all benefits as were made available to those who fell in the category “A”.

21. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J.

FEBRUARY 19, 2020

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