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

+ **W.P. (C) 7935/2013**

RAJ KUMAR

..... Petitioner

Through: Mr. R.P. Lao and Mr. Sanjay Lao,
Advts.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr. Pawan Mathur, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T

13.01.2020

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1. The petitioner seeks issuance of a mandamus, to the Delhi Development Authority (DDA), to allot, to the petitioner, a plot, and bases his claim on the basis of certain assurances, given by Shri V.N. Gadgil, the then Minister of Works, Production and Supply, Government of India, on 29th September, 1951, during the course of debate on the Delhi Premises (Requisition and Eviction) Amendment Bill, 1950, which came to be set down in writing and constitute what has come to be known, thereafter, as the “Gadgil Assurance Scheme” (hereinafter referred to as “GAS”)

Facts

2. On 29th September, 1951, as already noticed hereinabove, a statement was made, during the course of debate on the Delhi Premises

(Requisition and Eviction) Amendment Bill, 1950, by Mr. V.N. Gadgil, the then Minister of Work, Production and Supply, Government of India, to the effect that displaced persons (i.e. those who were displaced from Pakistan consequent to partition of the country), who were in unauthorised occupation of public land prior to 15th August, 1950, would not be evicted from the premises in their occupation, unless alternative accommodation was provided, to such persons, on developed land, as far as possible in the vicinity of the land from which they were, if at all, evicted.

3. This statement led to a Report, of the Committee on Assurances, in May 1955, Appendix XII of which sets out, in writing, the assurances given by Mr. Gadgil. It was thus that the GAS came into being.

4. Inasmuch as the GAS constitutes the fulcrum of controversy in the present writ petition, it would be apposite to set out, *in extenso*, the various clauses of the GAS, as under:

“1. Where any displaced person, without being authorised to do so, has occupied any public land or constructed any building or part of a building on such land before the 15th August, 1950 such persons, shall not be evicted nor such construction, shall be removed unless the following conditions are fulfilled:-

(a) a sector-wise plan in this behalf is prepared by the Chief Commissioner of Delhi, on the recommendations of the Allotment Committee and such plan is approved by the Central Government in the Ministry of Rehabilitation; and for the purpose of preparing such plans, the Allotment Committee functioning under the Chief Commissioner shall be strengthened by two persons nominated by the Central Government in the Ministry of Works, Production and Supply to represent the interests of displaced persons.

NOTE. The Allotment Committee as reconstituted would consist of :-

- (1) The Deputy Commissioner of Delhi as Chairman-ex-officio.
 - (2) Secretary, Local Self-Government to the Chief Commissioner,
 - (3) a representative of the Ministry of Rehabilitation,
 - (4) a representative of the Improvement Trust,
 - (5) a representative of the Delhi Municipal Committee, and
 - (6) two representatives nominated by the Central Government in the Ministry of Works, Production and Supply to represent displaced persons,
- (b) *where eviction is necessary, the alternative accommodation should be provided on developed land, and, as far as practicable, near the place of business or employment of the displaced persons.*
- (c) In every case where any construction is demolished or removed, rehabilitation grant ex-gratia is also made to the displaced persons either in cash or in the shape of building materials or both, the amount of which shall be determined by the Ministry of Rehabilitation having due regard to the circumstances of each case.
- (d) In the case of constructions which comply, or fairly comply or with suitable modifications may be made fairly or comply with the Municipal Requirements and Town Improvement plans (where such plans exist), the value of the land in unauthorised occupation shall be assessed, on no-profit-no-loss basis having regard to the cost of the acquisition and development of the land and the displaced person would be given an option to purchase the site occupied by him against payment in instalments of the

value of the land assessed and on condition of paying the ground rent for the time being in force.

Where the displaced person is unable to purchase the site occupied by him by reason of his inability to pay the purchase money or otherwise, the provisions of Clauses (b) and (c) shall apply and he shall not be evicted unless alternative accommodation is provided and a rehabilitation grant is made.

(e) In the case, of constructions which comply with the Municipal requirements but not with the Town Improvement Plans, such plans shall be so modified as to avoid, as far as practicable, the demolition or removal of the constructions; and where the plan is modified and the construction is not demolished or removed the provisions of clause (d) shall apply.

NOTE: For the above purpose, a committee consisting of the following persons shall be formed, namely: –

- (1) the Hon. Minister for Health,
- (2) the Hon. Minister for Works, Production and Supply,
- (3) the Hon. Minister of State for Rehabilitation,
- (4) three members of Parliament nominated by the Central Governments, and
- (5) one representative of the Improvement Trust, Delhi.

2. Where any displaced person, without being authorised to do so has before the 15th day of August, 1950, occupied any land other than public land or constructed any building or part of a building on such land, the Central Government will endeavour to bring about a settlement between such person and the owner of the land and if no settlement is arrived at, such person may be evicted and such, construction may be removed but he will be provided by the Central Government with a plot of land, as far as practicable, near the place of business or employment of the

displaced person, and in deserving cases, rehabilitation grant will be given to him.”

5. The GAS, thus, was a scheme, aimed at amelioration and rehabilitation of migrants, who had drifted from Pakistan to India consequent on partition. Administration, of the GAS, was to be effected by local civil bodies, the aim and objective being to ensure that all genuine refugees from Pakistan were properly rehabilitated.

6. “Assurance”, under the GAS, was based on production, by the refugee/squatter concerned, of evidence in the form of (i) a Refugee Registration Certificate, (ii) old ration card, of 1950 vintage, (iii) the presence of the name of the claimant in the voters list of 1951, (iv) receipt of payment of damages, assessed by the authorities, (v) Census slip, issued by the MCD in 1960, (vi) the present ration card, (vii) any other letter addressed to the squatters and (viii) a duly attested affidavit, certifying that the claimant to the benefit of the GAS had not availed any benefit, under the said Scheme, prior thereto.

7. Under the GAS, occupants of land prior to 15th August, 1950 were entitled to allotment of a plot of land in Category ‘A’, admeasuring 85 square yards, whereas occupiers, who commenced occupation between 15th August, 1950 and 30th September, 1960, were placed in Category ‘B’ and were entitled to a plot of land admeasuring 25 square yards.

8. According to the petitioner, his father, Chuni Lal, migrated from Pakistan consequent to partition of the country in 1947, and landed in Haridwar. The petitioner has placed, on record, a Refugee Registration

Card, issued to Chuni Lal, at Haridwar, on 6th October, 1947, the veracity of which has not been questioned by the respondent-DDA.

9. The writ petition further avers that, in 1949, Chuni Lal shifted to Delhi, where he constructed a small dwelling house, at T- 5334/2, 8A, Western Extension Area, Karol Bagh. By way of evidence of continued residence, by Chuni Lal at the said premises, the petitioner has placed, on record, a Ration Card, dated 24th January, 1950, issued to Chuni Lal, as well as a list of voters, stated to have been prepared under Section 14(B) of the Representation of People Act, 1951, on 1st June, 1951, in which the name of Chuni Lal figures at Serial No.6929. The entry, relating to Chuni Lal and his wife, as annexed to the writ petition, may be reproduced thus:

“VOTERS LIST

Delhi Municipal Committee War No.47 prepared on
1.6.1951

Serial No.6929

House No.	5334/2
Name	Chuni Lal
Father's name	Thakur Dass
Occupation	Shopkeeper
Male/Female	Male
Age	32 years

Serial No.6930

House No.	5334/2
Name	Shela Devi w/o Chuni Lal
Occupation	Household
Male/Female	Female
Age	24 years

Compared S/o Narain Dass Shanma
Dt. 12.1.1970
Prepared not legible
Sd./-Election Officer
Dt.12.1.1971”

10. These documents, asserts the petitioner, establish that Chuni Lal was residing in Delhi prior to 15th August, 1950, which constitutes, as it were, the “cut-off date”, for the purpose of entitlement to the benefits of the GAS.

11. It is further stated, in the writ petition, that a demand letter, dated 27/30th June, 1952, was issued, to Chuni Lal, by the Delhi Improvement Trust (the predecessor-in-interest of the DDA), under Section 4 of the Amendment Premises (Eviction) Act, 1950, requiring him to pay damages for being in occupation of House No T-5334/2, Block 8-A, Karol Bagh, which was located on public land. The notice also permitted Chuni Lal to, if he disagreed with the assessment of damages, file objections, in writing, thereto. Chuni Lal did so, resulting in reduction of the damages assessed, *vide* communication dated 11th December, 1952, also issued by the Delhi Improvement Trust.

12. Consequent to its coming into existence, the DDA also claimed damages, which were paid by Chuni Lal. It is also pointed out that the assessment, of Chuni Lal, to damages, for the period from 1st January, 1952 to 31st March, 1969, stood acknowledged, by the DDA, *vide* letter dated 24th April, 1971, which read thus:

**“DELHI DEVELOPMENT AUTHORITY
(DAMAGES SECTION)”**

File No. D/SR/Bl.8A/94

Dated 24.4.71

VERIFICATION CERTIFICATE

With reference to his application dated 24.4.71 for Verification Certificate, Shri Chuni Lal S/o Shri Thakur Dass is hereby informed that he has been assessed to damages from 1.1.52 to 31.3.69 for 50 Resi: Sq. yds Of land being used for Residential purposes in Southern Ridge Estate. He is however, to be assessed to damages for further period as he continues to be in unauthorised occupation of land mentioned above.

Sd/-
(ESTATE OFFICER)
DELHI DEVELOPMENT AUTHORITY”

It is not in dispute that the plot at T-5334/2, 8A, WEA, which was in occupation of Chuni Lal was, at that time, in the “Southern Ridge Estate”.

13. The writ petition also refers to the Census of squatters, conducted by the Government, and annexes the Census slip, evidencing that Chuni Lal was residing at 8A, WEA, Karol Bagh, prior to 15th August, 1950. The following Notes find place, at the foot of the Census Slip:

“1. One diagonal line will be drawn in the Square Block provided on the right hand top corner of the form to indicate that the occupant occupied the Jhugi / Structure on or before 15.08.50.

2. Two diagonal lines (making a cross) will show that the occupant is not a displaced person.”

The original Census Slip – a copy whereof is annexed to the writ petition – indicates that a single diagonal line has, indeed, been drawn in the

square block at the right hand corner towards the top of the form, indicating that Chuni Lal was, indeed, in occupation of the premises in which he resided, at 8A, W.E.A., Karol Bagh, on or before 15th August, 1950. In view of the nature of the controversy in the present case, as well as the order that I propose to pass, I deem it appropriate to reproduce, in its entirety, the aforesaid Squatters Census Slip, as annexed to the writ petition:

“Book No: 139

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ORIGINAL
CENSUS OF SQUATTERS

1.	ZONE, SECTOR & BLOC NO: (IN CODE)	III/3/20/234-246
2.	LOCALITY	8A W.E.A., Karol Bagh.
3.	No of JHUGI / STRUCTURE	157
4.	NAME OF HEAD OF FAMILY	Chuni Lal
5.	FATHER'S/ HUSBAND NAME	Thakur Dass
6.	OCCUPATION/ PROFESSION OF HEAD OF FAMILY	Goldsmith
7.	INCOME OF THE FAMILY	225/-
8.	USE TO WHICH JHUGI/STRUCTURE IS PUT	Dwelling
9.	NUMBER OF THE INMATES	10
10.	DATE OF OCCUPATION	1950

Partap Chand
Signature of Enumerator

NiranjanSingh
Signature of Supervisor

LOCAL WITNESS
Sd/-

Sd/-
Signature of Head of
family or any other member of family

Notes:

1. One diagonal line will be drawn in the Square Block provided on the right hand top corner of the form to indicate that the occupant occupied the Jhugi / Structure on or before 15.08.50.
2. Two diagonal lines (making a cross) will show that the occupant is not a displaced person.”

14. Resolution No. 641, dated 26th/27th August, 1968, was issued by a Standing Committee, constituted by the DDA to look into the entitlement of various persons under the GAS, which invited applications, from displaced persons in Delhi who had occupied public land before 15th August, 1950, and had not been given alternate land *or acquired any plot/house in Delhi*. The requisite information was required to be produced, in the proforma prescribed in that regard, by 31st December, 1968. Apparently, as many as 4589 applications were received, necessitating constitution, by the DDA, of yet another five-member High Powered Committee (hereinafter referred to as “HPC”), to look into the documents possessed by various claimants under the GAS, and the entitlement, of the claimants concerned, to benefits under the said Scheme. It is asserted that Chuni Lal, i.e. the petitioner’s father, produced all requisite documents, as enumerated at (i) to (vi) in para 6 *supra*, whereupon he was placed in Category ‘A’ at S. No. 31 of the list (of 40 members), approved by the Delhi Development Authority (“the DDA”, the respondent herein). He, therefore, it is asserted, was entitled to allotment of a plot of 85 square yards, under the GAS. It is important to note, here, that, though the writ petition avers that the aforesaid list, purportedly of persons entitled to be placed in Category ‘A’ of the GAS,

was displayed on the Notice Board of the DDA, the DDA has not acknowledged this, and has, in fact, distanced itself from the aforesaid list, questioning the veracity and authenticity thereof. The DDA seeks to point out, *inter alia*, in this regard, that the list contains the names of 45 persons though, at the head thereof, it purports to be a list of “40 members approved by the DDA in 1968 (High Powered Committee)... covered under the Cat ‘A’”.

15. The writ petition avers, however, that the said list of 40 members, though purportedly approved by the DDA, was never acted upon. Certain persons complained that, though they were entitled to allotment of Category ‘A’ plots, their names did not figure in the aforementioned list of 45 persons, as issued by the DDA. The matter was, therefore, deliberated upon, once again, resulting in Resolution No. 266, dated 16th October, 1970, of the DDA, which records that claimants, to the benefits of the GAS, were granted personal hearing, as many of them had not furnished proper documents along with the original applications. As a result thereof, the said Resolution noted that 1221 persons (approximately) were found eligible to benefit under the GAS. Appendix ‘AA’, to the Resolution reflected the area-wise distribution of the number of persons eligible for benefit under the GAS, whereas Appendix ‘CC’ reflected the number of persons, area/estate-wise, eligible for alternative accommodation, pursuant to the scrutiny made by the HPC. According to the recommendations of the Standing Committee, as contained in the said Resolution, this list was to be considered as the “final list of persons who were covered” under the GAS, and was directed to be published for the information of the general public. Notably, however, Appendix ‘CC’ to

the Resolution, too, did not reflect the names of individual persons, but only reflected the number of persons entitled to allotment of alternate plots, under the GAS, area/estate-wise.

16. The petitioner submits that, without acting on the aforesaid list of 45 names, drawn up by the DDA itself, he was directed, *vide* communication dated 16th November, 1975, issued by the DDA, to again produce necessary documents, indicating continuous occupation, by him, of premises in Delhi, dating back to 15th August, 1950. The said letter, which constitutes Annexure P-11 to the writ petition, reads as under:

“DELHI DEVELOPMENT AUTHORITY

No. 8/3 (4A) 72

Delhi Vikas Bhawan,
Room No 308, Block ‘D’
Indraprastha Estate,
New Delhi.

Dated 16/11/75 1974

From: –

Executive Officer-VI,
Delhi Development Authority.

To

Shri Chuni Lal, s/o Thakur Dass,
T-5334/2, W.E.A., Karol Bagh,
Block 8A, New Delhi.

Subject: Allotment of alternative accommodation to the displaced persons who occupied public land before 15-8-1950.

Dear Sir/Sirs/Madam,

With reference to your application dated _____
on the subject noted above, I am directed to request you to attend

this office in Room No 308, Block No 'D', on 26-12-75 at _____ along with the following documents and proof in your possession with the attested copies thereof.

1. Refugee Registration Certificate.
2. Receipt for payment of damages from 1-1-52 to date.
3. Extract from 'Voter List' of 1951 and 1960.
4. Census Slip of squatters of 1960.
5. Ration Card of 1950.
6. Any other proof i.e. correspondence at the site of occupation Sales Tax/Income Tax which you wish to produce in support of your being a displaced person/refugee.
7. Affidavit on the Non-Judicial Stamp Paper worth Rs.2/- stating therein that you did not get any rehabilitation benefit from the Government or any other agency constituted for this purpose in the shape of house, land, loan, plot grant etc. and that you or your wife or any of your dependent relation including unmarried children do not possess any plot of house in the urban limits of Delhi. The affidavit should be duly attested by a Ist Class Magistrate Delhi.

Yours faithfully,

Sd/-
For Executive Officer-VI"

17. The petitioner submits, in the writ petition, that, though the aforesaid request, of the DDA, was unjustified, Chuni Lal, nevertheless, complied therewith, and resubmitted the documents, which were verified.

18. The DDA, at this stage, issued directions, to Chuni Lal, to vacate the premises in his occupation, alleging that he was occupying, without due authorisation, Government land, against which Chuni Lal approached this Court by way of WP (C) 3319/1987. *Vide* order dated 23rd November, 1987, the said writ petition was disposed of, by this Court, with directions, to Chuni Lal, to approach the DDA. Chuni Lal, apparently, addressed a representation, dated 11th December, 1987, to the DDA, in compliance with the aforesaid directions of this Court. There is nothing, on record, to indicate that any decision, on the said representation, was ever communicated to Chuni Lal, who carried the matter, further, to the Supreme Court, by way of SLP (C) 5369/1988, which was disposed of, by the Supreme Court, by the following order, passed on 28th April, 1995:

“In SLP (C) No. 12201/87, this Court passed the following order on 29.10.87:

“The Special Leave Petition is dismissed. But in view of the statement made in paras 4 and 5 of the affidavit in reply filed in the High Court *where it has been stated by the Delhi Development Authority that the representation of the petitioner regarding separate allotment as he has been living separately since 1958 is under consideration by the authority concerned, we direct that till the decision is made on this matter, the authorities will not take any steps for demolition and is possession of the premises in question.*”

Parties’ counsel are agreed that an identical order be passed in favour of the petitioner in this case to the above effect. Prayer conceded and the instant S.L.P. is disposed of accordingly.”

(Emphasis supplied)

19. The afore-extracted order, of the Supreme Court in SLP (C) 5369/1988, is of considerable significance, in as much as it records the acknowledgement, by the DDA, before the Supreme Court, on 28th April, 1995, that the representation of Chuni Lal, for allotment under the GAS, on account of his having been resident in Delhi since 1958, was under consideration by the DDA. The SLP preferred by Chuni Lal was disposed of, on the basis of the said statement, to which the DDA is an assenting party. It is clearly not open, therefore, to the DDA, to contend, now, that the representation of Chuni Lal stood rejected at any point of time prior to 28th April, 1995, as that would amount to a concession, by the DDA, that it had misled the Supreme Court. In any event, in view of the statement of the DDA, recorded in the afore-extracted order, dated 28th April, 1995, of the Supreme Court in SLP (C) 5369/1988, any decision by the DDA, on Chuni Lal's claim for allotment of a plot under the GAS, taken prior to 28th April, 1995, has no meaning whatsoever.

20. Be it noted, it is not the contention, of the DDA, that the aforesaid order, dated 28th April, 1995, passed by the Supreme Court in SLP (C) 5369/1988, was altered or amended at any subsequent point of time.

21. On 15th June, 1995, Chuni Lal died, without having obtained any benefit under the GAS.

22. The petitioner, thereafter, applied for mutation of the property at T-5334/2, 8A, WEA, Karol Bagh, in his own name, on the basis of a registered will executed by Chuni Lal.

23. On 6th November, 2001, without taking any decision on the claim, of Chuni Lal – or, after his death, of his legal heirs – to benefits under the GAS, the DDA demolished the aforesaid property at T-5334/2, 8A, WEA, Karol Bagh. It is obvious, on the face of it that, in doing so, the DDA acted in clear contravention, as well as in possible contempt, of the order dated 28th April, 1995 *supra*, of the Supreme Court.

24. On or around the last week of September, 2007, the petitioner moved this Court by way of WP (C) 9412/2007 (*Raj Kumar v. The Vice Chairman, D.D.A.*), praying that a writ of mandamus be issued to the DDA, to allot, to him, a plot under Category ‘A’ of the GAS at Block 8A, W.E.A., Karol Bagh, New Delhi, against the premises at T-5334/2, which had been in occupation of Chuni Lal. By order dated 26th February, 2013, a learned Single Judge of this Court disposed of the said writ petition, noting, with deep anguish, that the order, dated 28th April, 1995, of the Supreme Court, had been flouted by the DDA. This Court disposed of the writ petition with a direction, to the DDA, to consider and dispose of the representation, of the petitioner, for allotment of plot, under Category A of the GAS, at Block 8A, W.E.A., Karol Bagh, against the premises at T-5334/2, within four weeks, and to furnish a copy of the decision, to the petitioner, within one week thereof.

25. These directions resulted in the passing, by the DDA, of the impugned order, dated 22nd April, 2013. It is observed, in the said order, that “as per the policy, the benefits under the Gadgil Assurance Scheme under Category ‘A’ was limited to those who occupied the public land before 15th August, 1950 and had not been given land or had not acquired

any plot/house in Delhi.” Apropos the demolition, which had been effected in 2001, the impugned Order records that there was no one at the site, at the time of demolition, and that no order of any Court had been shown. It is further noted, in the impugned Order, that the petitioner had not produced any demolition slip to show his occupation at the site in question at the time when demolition was carried out in 2001. The impugned Order expresses difficulty at the DDA taking any decision “unless the proof of continuous occupation as provided, showing that the occupant required rehabilitation”. Thereafter, based on the following rationale, the impugned Order rejects the representation of the petitioner:

“From the above, it may be seen that the petitioner/applicant has produced refugee registration certificate from Haridwar and it is not clear whether it has been transferred to Delhi or not and when. Further he has failed to produce the legible copy of Ration Card of 1950. He failed to produce the demolition slip of 2001 showing continuous occupation of the land. Further, the petitioner is residing abroad and it seems that he may not require any accommodation in the nature of rehabilitation. The case of the petitioner’s father, Sh. Chuni Lal had also been scrutinised and rejected on the ground that he already owned another house in Ajmal Khan Road as the benefits under the Gadgil Assurance Scheme are meant for those who had not been given land or had not acquired any plot/house in Delhi.

Accordingly, the case of Sh. Raj Kumar has been thoroughly examined by the Committee and decided not to recommend the case for allotment under Category ‘A’ of the capital Assurance Scheme.”

26. The present writ petition assails the aforementioned order, dated 22nd April, 2013, of the DDA. It is contended, in the writ petition, that, while examining the entitlement of the petitioner to allotment of a plot, under the GAS, the DDA was entitled only to look into documents relating to Chuni Lal’s status prior to 15th August, 1950. It is further

contended that the impugned decision has been taken on considerations which are extraneous and irrelevant to the entitlement, of the petitioner, to a plot under the GAS, such as the petitioner's being located abroad. It is asserted that there is no provision, in the GAS, prohibiting ownership of another property, by the applicant for a plot thereunder. The writ petition also questions the legitimacy of the decision, of the DDA, to reject the petitioners claim on the ground that the Refugee Registration Certificate produced by the petitioner had been issued at Haridwar. It is submitted that, every time Chuni Lal moved from one state to the other, it would be absurd to expect him to secure a fresh Refugee Registration Certificate. The terms of the GAS, it is pointed out, do not require the Refugee Registration Certificate be issued at Delhi. Insofar as the purchase of the second house by Chuni Lal is concerned, it is pointed out that the said house had been purchased more than 35 years after he had migrated to India, as an alternative plot, to which he was entitled under the GAS, was not allotted to him. In any event, it is pointed out, the said property was sold, by registered Sale Deed, to one Swarn Lata on 29th June, 1990. It is asserted that the property had to be purchased only to accommodate the ailing wife of Chuni Lal, who was required to be shifted from T-5334.

27. The DDA has filed two affidavits, in response to the writ petition, on 3rd March, 2015 and 7th November, 2017, respectively. In these two affidavits, the DDA has, apart from pleading delay and laches, on the part of the petitioner, asserted that the right of Chuni Lal, for allotment of a plot under the GAS, had been considered and rejected in 1987 itself. It is further pointed out, in the affidavits, that the underlying purpose of the

GAS was rehabilitation of persons who had migrated to India from Pakistan and were in dire need of shelter. Chuni Lal, it is submitted, having acquired another house in Delhi, had rendered himself ineligible for the entitlement of any benefit under the GAS. Objection is also taken to the fact that the Refugee Registration Certificate of Chuni Lal was issued at Haridwar, and not in Delhi, and it is submitted that it was not clear whether the said Certificate had been transferred to Delhi and, if so, when. The DDA has also questioned the veracity of the list of 40 members, annexed with the writ petition, which is stated to have been put up, by the DDA, on its Notice Board in December, 1968, and is stated to reflect the names of persons who are purportedly entitled to Category 'A' allotments under the GAS, in which the name of the petitioner figures at Serial Number 31. The DDA submits, in its additional affidavit, that such a list is not available on the records of the DDA and that, in the absence of the file number, wherefrom the list was taken, it was not possible to ascertain the veracity thereof. It is also pointed out that, though the Heading of the list recites that it is a list of 40 persons, the list actually contains 45 names. It is also pointed out that the list is unsigned, and does not reflect the name of the authority who has issued it.

Rival submissions at the bar

28. Arguments, at the bar, were advanced, on behalf of the petitioner, by Mr. R. P. Lao, learned Counsel. Written submissions have also been filed, by the petitioner, during the course of these proceedings, on 6th April, 2016. Apart from reiterating the submissions already contained in the writ petition, to which allusion has already been made hereinabove,

Mr. Lao submits, with chagrin, that, despite the name of Chuni Lal figuring at S. No. 31 of the list of persons eligible for allotment of a plot under Category A of the GAS, as annexed to the writ petition and as put up on the Notice Board of the DDA in 1968, no action was taken on the said list, and no plot was allotted to Chuni Lal. Mr. Lao submits that, in view of this fact, as well as in the light of the documents (annexed to the writ petition), which clearly bear out the entitlement, of Chuni Lal, to allotment of a plot under the GAS, the non-allotment of a plot, to him, was unsustainable. Insofar as the purchase, by Chuni Lal, of another plot, was concerned, Mr. Lao draws my attention to para 10 of Resolution No. 266, dated 16th October, 1970, of the DDA, with respect to implementation of the GAS, which reads thus:

“10. Before any benefit is given to any refugee, an undertaking will have to be obtained that he has not derived any benefit from Government either monetary or in the shape of land or building *in respect of the area squatted upon by him, prior to the proposed allotment.* The responsibility for rehabilitation of these squatting on l & D.O. and Municipal Corporation of Delhi lands will be that of the respective organizations who may be informed of the recommendations of the Delhi Development Authority.”

(Emphasis supplied)

Mr. Lao submits that, in view of the afore-extracted para 10 of Resolution No. 266, dated 16th October, 1970, of the DDA, the grounds on which the petitioner's representation was rejected, *vide* the impugned Order, dated 22nd April, 2013 were *ex facie* untenable. Mr. Lao seeks to assert that, even as per the afore-extracted para 10 of Resolution No. 266, the proscription was only in respect of persons who had derived benefit from the Government, either monetary or in the shape of land or building,

under the GAS, in respect of the area squatted upon by him, prior to the proposed allotment. The second house purchased by Chuni Lal, Mr. Lao would emphasise, was neither in the nature of a benefit derived from the Government, nor was it in respect of the area squatted upon by the petitioner, nor was it acquired prior to the allotment of land to Chuni Lal. Mr. Lao pointed out that the said second house (at Ajmal Khan Road) had been purchased, by Chuni Lal, after allotment, in his favour, already stood finalised. Besides, he submits, the said house, which was acquired in 1985, was sold, in 1990, on the expiry of the wife of Chuni Lal. Mr. Lao contends that the impugned decision of the DDA, in fact, infringed the direction contained in para 2 of the order, dated 26th February, 2013 *supra*, passed by this Court in WP (C) 9412/2007. It is pointed out that, in the said para, this Court specifically directed “that the representation of the petitioner based on the documents attached therewith shall be considered and disposed of by the Respondents/DDA for allotment of plot under Category A to the Petitioner at Block 8A, Western Extension Area, Karol Bagh, New Delhi, against the premises bearing No. T-5334/2 of the area...”.

29. Mr. Lao further submits that the objection, of the DDA, to the list of members annexed to the writ petition, and stated to have been displayed, by the DDA, on its Notice Board in 1968, was unfounded, as the second Column of the table reflected the individual File numbers of each person found entitled to allotment, including Chuni Lal (whose name figured at S. No. 31).

30. Mr. Lao has placed reliance on the judgments of the Supreme Court in *U.O.I. v. Indo-Afghan Agencies Ltd.*¹ and *Century Spinning and Manufacturing Co. Ltd. v. Ulhasnagar Municipal Council*².

31. Advancing submissions on behalf of the DDA, Mr. Pawan Mathur, learned Counsel has disputed the veracity of the list of 40 names, on which Mr. Lao places pointed reliance. He points out that, in its affidavit, in response to the writ petition, the DDA has specifically denied the genuineness of the said list, and has pointed out that no copy, thereof, figures on its records. As such, Mr. Mathur submits, the only document, reflective of a positive consideration of the petitioner's case, was the communication, dated 16th November, 1975 *supra*, addressed to the petitioner by the DDA, in which the petitioner was directed to appear, in the office of the DDA, on 26th December, 1975, with various documents. Mr. Mathur points out that the impugned Order, dated 22nd April, 2013, specifically notes that these documents were not produced by Chuni Lal, or by the petitioner. Mr. Mathur also emphasises the fact of purchase, by Chuni Lal, of another dwelling house, as a legitimate ground to deny, to him, the benefits of the GAS. Mr. Mathur further draws my attention to the fact that Mr. Lao had been specifically directed, by order dated 13th July, 2016, to produce instances of cases in which persons, who had purchased plots/houses in Delhi, were, nevertheless, extended the benefit of the GAS, to which Mr. Lao responded, on 27th October, 2016, that no such instances were forthcoming with him. In these circumstances, contends Mr. Mathur, no benefit could be extended to the petitioner. He, therefore, exhorts this Court to dismiss the writ petition.

¹ AIR 1968 SC 718: (1968) 2 SCR 366
² AIR 1971 SC 1021: (1970) 1 SCC 582

Analysis

32. I may, at the very outset, dispose of two preliminary submissions, advanced by the DDA, to contend that the petitioner's case does not deserve consideration on merits, viz., that the application of Chuni Lal already stood rejected in 1987, and that the writ petition is barred by delay and laches.

33. These two submissions, in my view, are neither available to the DDA, nor tenable, in law or on facts.

34. Insofar as the purported rejection, of the case of the applicant, in 1987, is concerned, it is obvious that the DDA cannot adopt such a stand, especially in view of the statement, by the DDA, before the Supreme Court, on 28th April, 1995, that Chuni Lal's case was under consideration. The submission of the DDA, that the case stood rejected by the DDA in 1987 and that, therefore, it was not open to him to re-agitate the issue, if countenanced, would amount to an acknowledgement, by the DDA, that the Supreme Court was deliberately misled on 28 April, 1995. The order dated 28th April, 1995, clearly records that *parties' counsel are agreed, ad idem*, for disposal of SLP (C) 5369/1988, preferred by the petitioner, on the basis of the submission, by the DDA, that the representation of the petitioner, regarding separate allotment, on the ground of continuous residence, in Delhi, since 1958, was under consideration, with an attendant direction that, till decision was taken on the said representation, no steps, for demolition of the premises occupied

by the petitioner, or dispossession of the petitioner, from the said premises, would be taken. Besides, the DDA adopted the same stand, before the learned Single Judge who, nevertheless, directed, *vide* order dated 26th February, 2013 in WP (C) 9412/2007, that the representation of the petitioner be considered and decision taken thereon.

35. In fact, the DDA has no right, whatsoever, in my view, to oppose the consideration of the petitioner's case on merits. It is surprising, given the obvious contempt, committed by the DDA, of the order dated 28th April, 1995, passed by the Supreme Court, that the DDA has adopted such a stance in these proceedings. For the same reason, the plea of delay and laches, as advanced by the DDA, cannot be permitted to be countenanced. There is no statutorily stipulated period of limitation, for institution of a writ petition. The principle of delay and laches, in institution of writ petitions, which owes its origin, fundamentally, to the pronouncement of the Constitution bench of the Supreme Court in *Tilokchand Motichand v. H. B. Munshi*³, is founded on equity and good conscience. The plea is unavailable to a party who acts inequitably. There is no explanation, worth its name, adduced by the DDA, for having demolished the premises of the petitioner on 6th November, 2001, in stark violation of the orders passed by the Supreme Court. The defence of the DDA, in this regard, is truly astonishing. It is sought to be contended, in the impugned Order dated 22nd April, 2013, that there was no one present at the site, at the time of demolition, and that no order, of any court, restraining demolition, was produced. Apparently, therefore, what the DDA seeks to contend, is that it was unaware of the order passed by the

³ (1969) 1 SCC 110

Supreme Court against it, and that, even if it were so aware, it enjoyed full liberty to violate the order, behind the back of the petitioner, in whose favour the order was passed. That a public authority should, before a Constitutional Court, advance such a submission, is truly disquieting. Be that as it may, having committed contempt of the Supreme Court, the DDA cannot, in my view, plead delay and laches, as a ground to oppose consideration of the petitioner's case on merits. No more, in my view, need be said on the issue.

36. The plea of delay and laches, as also the plea that, the application of Chuni Lal having been rejected in 1987, the petitioner cannot maintain the present proceedings are, therefore, rejected.

37. I proceed, now, to the merits of the case, and to examine the grounds on which the case of the petitioner, for allotment of a plot, had been rejected in the impugned Order dated 22nd April, 2013.

38. The first ground for rejection, cited in the impugned Order, dated 22nd April, 2013, is that the Refugee Registration Certificate, produced by the petitioner, was issued at Haridwar. The validity and veracity of the said certificate has not been questioned by the DDA, at any point of time, even in the proceedings before this Court. There is no stipulation, forthcoming from the record, requiring that the refugee registration certificate, in order for it to confer entitlement to the benefits of the GAS, to have been issued in Delhi. Chuni Lal having landed in Haridwar, on migrating from Pakistan, the refugee registration certificate would obviously be issued in Haridwar. Mr. Mathur has not been able to point

out, to me, any requirement, in law, either of Chuni Lal having to secure a fresh refugee registration certificate, when he migrated to Delhi, or of a refugee registration certificate, in order to constitute the basis to lay a claim under the GAS, necessarily having to have been issued at Delhi. This, therefore, cannot constitute a legitimate basis to reject the claim, of the petitioner, for allotment of plot under the GAS.

39. The impugned Order further recites that the petitioner had “failed to produce the demolition slip of 2001 showing continuous occupation of the land”. It is not possible to understand how the demolition slip issued in 2001 could evidence continuous occupation of land by the petitioner. Possibly, what was intended to be conveyed was that the petitioner had not produced the demolition slip in order to indicate that he was in occupation of the land at the time when the demolition took place. That, however, is entirely irrelevant to the issue of entitlement, of the petitioner, to allotment of plot under the GAS.

40. The impugned Order further expresses a doubt as to whether, as he was residing abroad, the petitioner required accommodation in the nature of rehabilitation. This, again, is an irrelevant consideration. The provisions of the GAS, as also the various Resolutions of the DDA, wherein the issue was considered, do not, at any point, postulate residence of all members of the family in India, as a precondition for entitlement to allotment of a plot under the GAS. The contention of the petitioner is that he went abroad in connection with his official duties, but that his family continues to occupy the premises at T-5334/2. In that view of the matter, the fact that the petitioner himself may have been abroad,

too, cannot constitute a legitimate basis to reject his claim to the benefits of the GAS.

41. Yet another ground, on which the impugned Order, dated 22nd April, 2013, rejects the claim, of the petitioner, to allotment of plot under the GAS, is the ownership, by his father Chuni Lal, of the house at Ajmal Khan Road. In the first place, the petitioner has pointed out that the said house was sold as far back as in 1990, and was in ownership of Chuni Lal only for a period of five years, from 1985 to 1990. The right of Chuni Lal to allotment of plot under the GAS, if at all, enured as far back as in 1955. The fact that, 30 years after the right so enured, Chuni Lal purchased another house, which he retained with him for five years and sold in 1990, can, in my view, hardly constitute a ground to deny, to Chuni Lal, the benefit of the GAS. That apart, there is substance, in the contention of Mr. Lao, that no such stipulation is to be found in the GAS. The provisions of the GAS, as annexed to the writ petition, do not refer, at any point, to ownership or possession, or otherwise, of the claimant to the benefits of the GAS, of any other plot. The affidavit, which is required to be submitted by the claimant to an alternative plot, under the GAS is, as per the impugned Order, dated 22nd April, 2013, required to depose that “no plot/land *has been allotted to him/them prior to this* and he/they has/have not taken any benefit *under the Gadgil Assurance Scheme.*” Similarly, Resolution No. 226, dated 22nd November, 1971, of the DDA, which also dealt with implementation of the GAS, contained the following interdiction:

“Before, therefore, actually shifting the squatters it will be ensured that no benefit is given to any displaced persons subject to an undertaking that he has not derived any benefit *from*

Government, either monetary or in the shape of land or Building in respect of the area squatted by him prior to the proposed allotment.”

(Emphasis supplied)

An identical stipulation is contained in para 10 of the subsequent Resolution No. 266, dated 16th October, 1970, of the DDA. Such a stipulation, if anything, may indirectly be found in Resolution No. 266, dated 16th October, 1970, of the DDA. This restrictive covenant, therefore, applies only if the benefit – in the form of an alternative dwelling house or otherwise – is derived from the Government, under the GAS, in respect of the area on which the claimant is squatting, and is derived prior to the proposed allotment. Mere possession of an alternative dwelling unit does not appear to be an inhibiting factor, for entitlement to allotment of an alternative plot under the GAS, from the record available before me. Inasmuch as the Ajmal Khan Road property, which was acquired by Chuni Lal for five years, between 1985 and 1990, was purchased out of his own funds, and not given by the Government, either under the GAS or otherwise, the reliance, by the DDA, of the acquisition, by Chuni Lal, of the said property, as a ground to justify rejection of the petitioners claim to allotment of a plot under the GAS is also, therefore, in my opinion, thoroughly misplaced.

42. An important aspect of the present controversy is required to be noticed, here. In seeking to justify the rejection of the petitioner’s claim, the DDA has emphatically sought to rely, in the documents on record, as well as in the pleadings before this Court, as also in oral submissions advanced across the Bar, on the “purpose” of the GAS, i.e. rehabilitation of displaced persons. The submissions, if countenanced as advanced,

would amount to clothing the authorities with an absolute discretion to take a decision, even in cases where all requirements, expressly stipulated in the GAS are met by an applicant, to reject his case on the ground that he does not *require rehabilitation*. In my considered opinion, this is entirely impermissible. The entitlement, or otherwise, of the citizen, to any amelioratory, or otherwise beneficial, scheme of the Government, has to abide by the covenants of the scheme. It is not permissible for the authority, executing the scheme, to second-guess the rationale thereof; neither would it be permissible for a Court, adjudicating on the entitlement of a petitioner, before it, to the benefits of the scheme, to do so. If the benefit of a beneficial dispensation, of the Government, is to be denied to a person who fulfils all requirements stipulated therein, on the basis of an imagined “purpose” which, according to the authority concerned, would not justify extension of the benefit of the scheme, it would result in a situation of total anarchy. The covenants of such schemes would, thereby, lose their sanctity altogether, and the decision, of whether to extend, or not extend, the benefits of the scheme would be left to the sweet will of the officer conferred with the task of doing so. The perils of such a situation may well be imagined. It may also provide fertile ground for corrupt practices to thrive, as the officer, who has to decide whether the benefit of the scheme should be extended, or not, would be at liberty to refuse to do so, even where all prerequisites of the scheme are fulfilled, in the case of the claimant before him. To my mind, such a situation is untenable in law, and defeats the very *raison d’etre* of providing for an alternative allotment under the GAS. The benefits of the scheme, as well as the decision as to whether the benefit should, or should not, be extended in a particular case, have necessarily to be guided

by the covenants of the scheme which confers the benefits. If, *de hors*, or over and above, the said covenants, it is felt necessary to clothe the authority, dispensing benefits under the Scheme, with any residual discretion, an express provision, conferring such discretion on the said authority, must find place in the scheme. In the absence of any such provision, it is not open to the authority, dispensing benefits under the scheme, to deny such benefits to a candidate who fulfils the requirement of the scheme.

43. Such schemes have necessarily to be accorded an expansive construction. One is tempted to derive the principles, governing the manner in which the covenants of a beneficial schemes such as the GAS are to be interpreted and applied, from the principles applicable to interpretation of exemption notifications, in taxing statutes, as noticed in the following passages from *M/s Bharat Diagnostic Centre v. Commissioner of Customs*⁴.

“**5.** With regard to the interpretation and construction of a notification granting exemption, it is settled that *at the first instance, strict interpretation would apply, that is to say in the case of ascertaining its applicability. Thereafter, the Court may adopt the liberal approach within the particulars of the said notification.* The case of *Gammon (I) Ltd. v. Commr. of Customs, (2011) 12 SCC 499*, reiterated the well-settled position of law that a provision providing for an exemption has to be construed strictly. The following cases would, further make the position of law clear on this point.

6. In the case of *Commr. of Customs (Imports) v. Tullow India Operations Ltd., (2005) 13 SCC 789*, it was held that :

“... The principles as regards construction of an exemption notification are no longer *res integra*; whereas the

⁴ 2014 (307) ELT 632 (SC): 2014 SCC OnLine SC 1087

eligibility clause in relation to an exemption notification is given strict meaning where for the notification has to be interpreted in terms of its language, once an assessee satisfies the eligibility clause, the exemption clause therein may be construed liberally. An eligibility criteria, therefore, deserves a strict construction, although construction of a condition thereof may be given a liberal meaning.”

7. In the case of *A.P. Steel Re-Rolling Mill Ltd. v. State of Kerala*, (2007) 2 SCC 725, it was held that :

“... The general principles with regard to construction of exemption notification are not of much dispute. Generally, an exemption notification is to be construed strictly, but once it is found that the entrepreneur fulfils the conditions laid down therein, liberal construction would be made.”

8. Further in the case of *Collector of Customs (Preventive) v. Malwa Industries Ltd.*, (2009) 12 SCC 735, it was held that :

“... An exemption notification should be read literally. A person claiming benefit of an exemption notification must show that he satisfies the eligibility criteria. Once, however, it is found that the exemption notification is applicable to the case of the assessee, the same should be construed liberally.”

Without intending, in any manner, to analogize exemptions from tax, with allotment of a plot under the GAS, both are, at the end of the day, beneficial dispensations, and, to my mind, an approach, similar to that advocated by the Supreme Court in interpreting exemption notifications, should appropriately guide the exercise of examination of whether the claimant, to the benefits of a beneficial scheme such as the GAS, is entitled thereto, or not. In other words, insofar as the fulfilment of the essential precondition, for entitlement to the benefit of the scheme – i.e., in the case of Category A of the GAS, continuous residence in India from a point of time anterior to 15th August, 1950 – a strict view is to be

adopted, once, on the face of it, this precondition is fulfilled, the various other procedural stipulations in the GAS must receive a liberal interpretation, and cannot be so construed as to deny, to the eligible applicant, the benefits of the Scheme. The entitlement, or otherwise, of the petitioner, to allotment of a plot under the GAS, has, therefore, to be determined on the basis of whether he fulfils the stipulated requirements of the GAS, or not. If he does, he is entitled to the allotment of a plot; else, he is not. The grounds, on which the case of the petitioner, to allotment of a plot, has been rejected, *vide* the impugned Order dated 22nd April, 2013 are, as already observed by me hereinabove, entirely without substance, and are, *ex facie*, unsustainable in law.

44. The communication, dated 16th November, 1975, from the DDA to Chuni Lal, records the following documents as having to be produced, by him, in order to establish his entitlement to an alternative accommodation under the GAS:

- (i) Refugee Registration Certificate,
- (ii) Receipts for payment of damages from 1st January, 1952 till date,
- (iii) Extract from the 'Voters List' of 1951 and 1960,
- (iv) the Census Slip of squatters of 1960,
- (v) the Ration Card of 1950 and
- (vi) an affidavit, stating that Chuni Lal had not received any rehabilitation benefit from the Government or any other agency constituted for the purpose, in the shape of house, land, loan, plot, grant, etc., and did not own or possess any plot of house in the urban limits of Delhi.

Apart from this, Chuni Lal has, by the said communication, being also permitted to produce any other proof, of his being a displaced persons/refugee.

45. The impugned Order, dated 22nd April, 2013, notes that the petitioner produced

- (i) a Refugee Registration Certificate issued in Haridwar,
- (ii) Squatter Census Slip of 1960,
- (iii) the Voters List of 1951, as issued in 1970
- (iv) an old Ration Card which, according to the Order, was not readable and
- (v) notice of payment of damages dated 27th June, 1952 and 11th December, 1952, issued by the Delhi Improvement Trust (the predecessor-in-interest of the DDA).

46. Requirements (i), (ii), (iii) and (iv), among the requirements are enumerated in para 44 *supra*, were, therefore, admittedly fulfilled by the documents produced by the petitioner before the DDA. Most importantly, the Squatters Census Slip of 1960, as issued to Chuni Lal – which is a statutory document and is, in fact, one of the stipulated documents, on the basis of which the settlement of the claimant, to the benefits of the GAS, is to be determined – specifically notes that Chuni Lal was residing in the premises at 8A, W.E.A., Karol Bagh, and, by entering a single diagonal line in the box at the right hand corner at the head of the document, acknowledges and certifies that Chuni Lal was in occupation of the said premises on or before 15th August, 1950. Nothing more, in my opinion, was required, to establish, conclusively, the entitlement, of Chuni Lal, for

an alternative plot, under the GAS. Chuni Lal was also paying, continuously, damages for occupation of the said premises, as per the demands raised by the DDA from time to time. Insofar as requirement (v) is concerned, the impugned Order notes that the copy of the Ration Card produced by the petitioner was not readable. The petitioner has, with the writ petition, filed a typed transcript of the Ration Card, which clearly shows that it was issued on 24th January, 1950. The DDA has, despite having filed two affidavits, in response to the writ petition, not chosen to challenge the veracity of the said typed transcript of the Ration Card, the Voter's List or of the Squatters Census Slip. Rather, the fact that the Voter's List and the Squatters Census Slip had, indeed, been produced by the petitioner, stands expressly noted in the impugned order dated 22nd April, 2013.

47. It is observed that the impugned Order, dated 22nd April, 2013, also states that electric/water/telephone bills, if any, dating back to 1950, are also required to be scrutinised, in order to take a decision on the entitlement, of the petitioner, to the benefit of the GAS. No such requirement is to be found in the letter dated 16th November, 1975, or in any other document, governing the administration of the GAS. That apart, the use of the words “if any”, indicates that this cannot be treated as a mandatory requirement. Similarly, the reference to “any other letter addressed to squatter at his place of occupation prior to 15.8.1950 by any Government Agency”, which finds place in the impugned Order dated 22nd April, 2013, is not to be found in the communication dated 16th November, 1975 *supra* and cannot, therefore, be treated as an essential prerequisite for grant of benefits under the GAS.

48. In any event, as is already apparent from my observations hereinabove, the documents produced by Chuni Lal and, later, by the petitioner, before the DDA, were more than sufficient to establish continuous occupation, by Chuni Lal, from a point of time prior to 15th August, 1950, of the premises at Karol Bagh. This, seen with the Refugee Registration Certificate possessed by Chuni Lal, albeit issued at Haridwar, in my opinion, conclusively established the right of Chuni Lal to allotment of an alternate plot, under the GAS. The inaction, on the part of the DDA, in allotting an alternate plot to Chuni Lal, under the GAS, and in allowing the issue to linger for over half a century as on date, is inexplicable and indefensible, in equal measure. It is disconcerting that the DDA is, even after having demolished the premises at T-5334/2, Block 8A, W.E.A., Karol Bagh, on 6th November, 2001, in stark violation of the directions issued by the Supreme Court, seeking to contest the right of the petitioner, to allotment of a plot under the GAS.

49. No other ground, justifying rejection of the claim of the petitioner, to the benefits of alternative allotment under the GAS, finds place in the impugned Order, dated 22nd April, 2013.

50. The matter has been remanded twice, to the DDA, to no avail. In the process, Chuni Lal, the original “displaced person”, entitled to the benefit of the GAS, has departed for his heavenly abode, without seeing even face of the plot, to which he was unquestionably entitled. It is obvious that each and every displaced person, who has not received any other benefit under the GAS, and who was resident in Delhi on or before

15th August, 1950, is entitled to allotment of a plot, in Category A of the GAS.

51. One may refer, profitably, in this context, to the judgment of this Court, speaking through Sanjay Kishan Kaul, J. (as His Lordship then was) in *Jagbushan Lal v. U.O.I.*⁵ in which it was held thus:

“7. ... The documents enlisted in para 3 of the scheme are meant to verify and confirm so that a person who is not entitled should not secure any benefit. *Once the entitlement can be confirmed from some of the documents, the further requirement of production of documents of same nature to verify the same aspect cannot be treated as an essential requirement.* ... These are matters to be examined on the basis of the documents submitted by a person and *the case should not merely be rejected because of non-production of one of the documents, which is only to examine the validity of the case of a person, when such verification can take place from the other documents produced.*”

(Emphasis supplied)

The ultimate attempt of the DDA has, therefore, in all such cases, to be aimed at ascertaining whether the claimant, before it, the benefits of the GAS, has, or has not, produced material, sufficient to establish continuous occupation, by him, of residential accommodation in Delhi, from a period prior to 15th August, 1950. If the documents produced by the claimant are sufficient to establish this fact, he cannot be denied the benefit of alternative accommodation under the GAS.

52. I, therefore, am of the considered opinion that the petitioner is entitled to allotment of a plot, in Category ‘A’ of the GAS, as Chuni Lal was in continuous occupation of the premises at T-5334/2, Block 8A, W.E.A, Karol Bagh, from point of time anterior to 15th August, 1950.

⁵ (2003) 66 DRJ 378

Conclusion

53. The present writ petition is, therefore, allowed. The DDA is directed to allot, to the petitioner, a plot, in Category A of the Gadgil Assurance Scheme, within a period of four weeks from the date of receipt, by it, of a certified copy of this judgment. There shall be no order as to costs.

54. List the matter for recording of compliance, by the DDA, with the aforesaid directions, before the appropriate bench, on 24th February, 2020.

C.HARI SHANKAR, J.

JANUARY 13, 2020

dsn/HJ



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