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

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Date of decision: 24 February 2022

+ W.P.(C) 14868/2021, CM APPL. 46936/2021

RAMPHOOL & ORS. Petitioners

Through: Mr.Avadh Kaushik, Adv.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr.Sameer Vashisht, ASC (Civil)
(GNCTD) with Ms.Sanjana Nangia,
Adv. for respondent Nos. 1 to 4.
Mr.Rahul Mehra, Sr. Adv. with
Mr.Ajjay Aroraa, ASC,
Mr.Chaitanya Gosain and Mr.Anuj
bhargava, Advs. for respondent/DJB.

CORAM:**HON'BLE MR. JUSTICE YASHWANT VARMA****YASHWANT VARMA, J. (ORAL)****[VIA VIDEO-CONFERENCING]**

1. This petition had been preferred challenging the notice dated 14 December 2021, pursuant to which the petitioners and others who were alleged to be in unauthorised occupation of Gaon Sabha land comprised in Khasra No.23/18, were asked to vacate the same on or before 16 December 2021. When the writ petition was originally entertained by the Court, taking into consideration the submissions addressed interim protection was accorded to the petitioners here. The parties have subsequently exchanged pleadings.

2. The case of the petitioners is that they were inducted in possession



over the plots in question under the 20 Point Program formulated by the Union. The petitioners have referred to documents placed at Annexure P-2, Annexure P-3 and Annexure P-4 to submit that the Gaon Sabha had itself allotted the plots in question to the petitioners in purported extension of the benefits contemplated under the 20 Point Program. It is their case that although the initial period of lease was prescribed to be nine years, the respondents themselves have issued subsequent notifications on 28 September 2007 and 19 September 2011 in terms of which a policy decision was taken for the grant of perpetual lease rights to allottees of residential sites who may have been extended benefits under the 20 Point Program. On the aforesaid basis, it was submitted that the petitioners cannot be said to be rank trespassers and that their settled rights of possession extending over decades was not liable to be interfered with by the respondents.

3. The Sub-Divisional Magistrate has filed an affidavit in these proceedings wherein the unequivocal stand taken is that the entire case of the petitioners is based on falsehood. The respondents assert that the petitioners were never allotted the plots in question and the documents which have been appended along with the writ petition themselves do not establish a valid allotment made in their favour. In fact, the respondents go to the extent of asserting that the documents produced by the petitioners are forged and fabricated. It is the stand of the respondents that the same have been prepared by the petitioners with the motive to usurp government land. It is further stated that the land in question always stood recorded in the name of the Gaon Sabha. According to them, no record exists of the land or



any part thereof having been allotted to the petitioners.

4. The respondents further state that after due consultation amongst governmental authorities and inspection of the land, it was earmarked as being suitable for construction of a Sewage Treatment Plant [STP]. They further refer to the order passed by the Lieutenant Governor on 03 November 2021, in terms of which the subject land was allotted to the Delhi Jal Board [Board] for establishment of an STP. It is the case of the respondents that pursuant to the aforesaid allotment, possession of the plot in question was handed over to the Board on 07 December 2021. The Board has also filed an affidavit in these proceedings. It is contended on its behalf that pursuant to the allotment of the land in their favour, the authorities had proceeded to commence proceedings for establishment of the STP over the land in question. They refer to the inspection exercises which were undertaken in 2018 whereafter the subject land was ultimately finalized as being suitable to be utilized for establishment of the STP.

5. It is further disclosed that at the time when the plot was inspected in December 2021, it was found that various encroachments had come to be made over the plot. It was in the aforesaid backdrop that the Board had requested the Sub-Divisional Magistrate to take appropriate steps for removal of encroachments. It is further contended that pursuant to the directions issued by the competent authority, a demolition drive was undertaken by the Special Task Force [STF] on 21 December 2021 and once the plot had been rid of all encroachments, possession of the same came to be handed over to the Board. It is submitted that the facts relating to removal of encroachments pursuant to the steps taken by the STF was



deliberately concealed from this Court and an interim order obtained on 22 December 2021.

6. The petitioners along with the rejoinder affidavit have placed on the record certain proceedings purporting to be resolutions passed by the concerned Gaon Sabha and duly recorded in LR Form-38. According to learned counsel, drawl of these proceedings by the Gaon Sabha and recordal thereof in LR Form-38 would establish that the petitioners had been allotted the residential plots by the concerned Gaon Sabha after following the process as contemplated under the **Delhi Land Reforms Act 1954** [Act]. It was orally submitted that since most of the old records would be present in the office of the BDO, Alipur, the ends of justice would warrant the said authority being arrayed as a party respondent and being commanded to produce the relevant record.

7. The Court notes that the case set up in the writ petition fundamentally rests upon the deposit of certain monies by the petitioners as evidenced from LR Forms' 37 that have been filed along with the writ petition as also a certificate purportedly signed by the Gaon Pradhan. The certificate is asserted to be evidence of a valid allotment having been made in favour of the petitioners here. Having perused those documents and the other contemporaneous records which have been placed on the record by the petitioners, the Court notes that the allotment certificate is not shown or established to have been preceded by a valid resolution having been passed by the concerned Gaon Sabha for allotment of residential sites in favour of the petitioners. In fact, these certificates do not even record the Khasra or plot numbers which are alleged to have been allotted in favour of the



petitioners. Even the material which is placed on the record by way of a rejoinder affidavit and more particularly the relevant extracts of LR Form-38, fail to establish a valid allotment being made in favour or of the petitioners being inducted in possession over this plot pursuant to a resolution duly passed. Those resolutions merely refer to a principled decision taken by the Gaon Sabha to allot surplus and vacant land in favour of landless persons. Even these resolutions do not evidence any decision for allotment of parts or portions of the plot in question in favour of the petitioners. The petitioners have also not placed on the record any orders that may have been made by the competent authority affirming or approving any alleged resolution that may have been made in their favour by the Gaon Sabha. While it is true that 20 Point Program was a beneficial scheme and did envisage allotment of housing sites, for the petitioners to succeed it was incumbent upon them to prove and establish that pursuant to the provisions made in that scheme, an allotment came to be made in their favour in accordance with the procedure prescribed under the Act. The petitioners have abjectly failed to place any material in this respect. At the cost of repetition, it may be noted that no material or record has been produced which may have established or evidenced the creation of a right in favour of the petitioners here over a part or portion of Khasra No.23/18 situated in Revenue Estate, Nizampur, Tehsil Kanjhawla, Delhi.

8. The Court also bears in mind that though the original allotment allegedly made in their favour was only for a period of 9 years, no remedies were either instituted or pursued by the petitioners for a declaration of their rights over the land in question upon the expiry of the aforesaid period. The



petitioners have also failed to controvert the unequivocal statement made by the respondents that the land always stood recorded in favour of the Gaon Sabha. The aforesaid facts cast a serious doubt upon the case as set up in the writ petition.

9. The reliance placed by learned counsel on the executive decisions purported to have been taken by the GNCTD for grant of perpetual leases is noticed only to be rejected since even those executive decisions are not found to have been followed up by the execution of any leases in favour of the petitioners in accordance with the procedure prescribed under the Act.

10. The oral prayer made by the petitioners for impleadment of the concerned BDO at this stage, is also liable to be refused and turned down for the following reasons. It must necessarily be noted that it was incumbent upon the petitioners while seeking to invoke the jurisdiction of this Court and praying for the issuance of a prerogative writ, to place on the record cogent material in support of the asserted right over the plot in question. Even though sufficient time had been granted to them, evidence which may have lent some credence of an allotment having been made in their favour was not placed even by way of the rejoinder affidavit. It was only when the writ petition was taken up for final hearing that learned counsel made an oral prayer for the impleadment of the BDO and for the summoning of records. The Court consequently finds no justification to call upon the BDO to produce records which are alleged to be in its possession now and at this stage of the proceedings. Adopting that course of action, would only amount to the Court undertaking a roving enquiry in order to ascertain the veracity of the claim as raised by the petitioners here. In



summation it may only be noted that the onus to establish valid occupation and allotment of the premises lay solely on the shoulders of the petitioners here. That burden has not been discharged by them.

11. Accordingly, and for all the aforesaid reasons, the writ petition along with the pending application fails and shall stand dismissed.

YASHWANT VARMA, J.

FEBRUARY 24, 2022/bh

