

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

Date of decision: 06th January, 2023

IN THE MATTER OF:

+ **LPA 498/2022 & CM APPLs. 37966/2022, 37968/2022**

DELHI DEVELOPMENT AUTHORITY

..... Appellant

Through: Ms. Manika Tripathy, Standing
Counsel for the DDA with Mr.
Ashutosh Kaushik, Mr. Manish
Vashisht and Mr. Roshan Kumar,
Advocates.

versus

**RAMESH LAKHWANI (DECEASED) THROUGH HIS LRS &
ANR.**

..... Respondents

Through: Mr. Rajat Aneja and Ms. Chandrika
Gupta, Advocates for R-1
Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. Aggrieved by the Order dated 18.03.2021 passed by the learned Single Judge in W.P.(C) 3359/2017, the Delhi Development Authority (DDA) has preferred the instant appeal. The learned Single Judge by the Judgment impugned herein in the appeal has allowed the writ petition which was filed by Respondent No.1 herein for a direction to the Appellant/DDA to process the application of the Respondent No.1 for conversion of the

property bearing J-221, Malviya Nagar Extension, Saket, New Delhi-110017 from leasehold to freehold in accordance with the policy guidelines of the DDA.

2. The facts, in brief, which has led to filing of the instant appeal are that the Government i.e., Secretary (CN), Land and Building Department, Delhi Administration, recommended allotment of an alternative plot of land measuring 200 sq. yards to one Ranjit Singh S/o Kali Ram under a scheme which was formulated by the Government for rehabilitating those persons whose entire land was acquired by the Government.

3. Pursuant to the recommendation, plot bearing J-221, Malviya Nagar Extension, Saket, New Delhi-110017 was allotted to the said Ranjit Singh by issuing an Allotment-cum-Demand letter on 02.11.1979. Thereafter, Ranjit Singh executed a General Power of Attorney (GPA) in favour of the elder brother of the Respondent No.1, i.e., Shri Laxman Lakhwani whereunder Shri Laxman Lakhwani, was authorized to do all the acts as mentioned under the GPA. The said Shri Laxman Lakhwani executed an Agreement to Sell in favour of the Respondent No.1 i.e., Ramesh Lakhwani herein who is the younger brother of Shri Laxman Lakhwani whereunder he agreed to transfer the leasehold rights qua the aforesaid plot in question to the Respondent No.1 for a consideration of Rs. 48,000/-. On receipt of payment towards cost of the plot, physical possession of the plot was handed over on 03.04.1980.

4. On 19.05.1980, Shri Laxman Lakhwani, Attorney Holder, applied to the Appellant/DDA for grant of sanction to carry out construction over the plot in question. The Appellant/DDA issued a letter dated 26.05.1980, thereby granting sanction to carry out construction over the plot in question

in terms of its policies. On 19.06.1980, the Appellant/DDA also granted water connection to the Respondent No.1. The Perpetual Lease Deed was executed by the Appellant/DDA on 27.10.1980 in favour of the allottee/Shri Ranjit Singh.

5. After about 40 years i.e., 29.02.2012, a request for conversion from leasehold to freehold qua the property in question was received from Shri Lakshman Lakhwani, who is elder brother of the Respondent No.1 herein on the basis of General Power of Attorney and Agreement to Sell. As per the documents submitted, the registered GPA which was executed on 28.02.1980 by the allottee in favour of Sh. Laxman Lakhwani S/o Sh. Kishan Chand and Agreement to Sell was executed on 28.02.1980 in favour of Sh. Ramesh Lakhwani S/o Sh. Kishan Chand i.e. the Respondent No. 1 herein were submitted. It is also pertinent to mention that a sum of Rs.2,31,488/- was paid by the Respondent No.1 to the Appellant/DDA towards conversation charges.

6. A letter dated 06.06.2012 was sent to Respondent No.1 herein by the Appellant/DDA with a request to seek clearance from the Land and Building Department, Delhi Administration i.e., Respondent No.2 herein, before the case of Respondent No.1 for the desired conversion into freehold could be processed owing to the reason that the L&B department had directed Appellant/DDA in the year 1981 not to take any action and keep the case in abeyance.

7. It is stated that the letter dated 06.06.2012 was issued because it came to light that the Land and Building Department, Delhi Administration, had allegedly forwarded a list of cases, *vide* its letter dated 17.02.1981 wherein it was reported that allotments had been made to persons on the basis of forged

recommendations and documents, and the said alleged list included the plot in question in the list of cases..

8. It is stated that the Respondent No.1 had sought information under Right to Information Act, 2005 in respect of the concerned file which is said to have included the plot in question by the Land and Building Department, Government of NCT of Delhi, however, no information was provided on the ground that the file is not traceable. Appeals were also filed before the First Appellant Authority against the non-disclosure of the information under Right to Information Act, 2005 but to no avail.

9. Since no response was being provided regarding the file which is said to have included the plot in question in the list of cases and also the direction to keep the allotment of the plot in abeyance and also since no action was being taken by the Appellant/DDA to process the application of the Respondent No.1 for conversion of the property from leasehold to freehold, the Respondent No.1 approached this Court by filing the writ petition bearing W.P.(C) 3359/2017 with the following prayers:

“It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to issue a Writ in the nature of MANDAMUS and/or any other appropriate Writ/Order/Direction of like nature thereby directing and commanding the Respondents, and particularly the Respondent No. 1 (Delhi Development Authority), to carry out the conversion of the Property bearing No. J-221, Malviya Nagar Extension, Saket, New Delhi-110017 from leasehold into freehold in accordance with its Policy Guidelines and on the basis of the Application already submitted alongwith all the requisite documents, in the light of the detailed facts and circumstances narrated hereinabove.

Any other order (s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may be passed in favour of the Petitioner and against the Respondents."

9. The Appellant/DDA has filed a counter affidavit stating that Joint Secretary (L&B), Delhi Administration, forwarded a list of 128 cases *vide* letter dated F.15(210)80-L&B/7352 dated 17.02.1981 which were reported to on the basis of forged recommendations and the Appellant/DDA was requested not to make any allotment or to execute lease deed and also to revoke the allotment, if any, made. It is stated that another list of 38 cases was also enclosed by GNCTD intimating that the case files of those cases are not traceable with them and desired that no action need to be taken in the 38 cases and they must be kept in abeyance. It is stated the present case is one of the 38 cases where L&B, Department desired the DDA not to take any action and to keep it in abeyance.
10. The counter affidavit also discloses that the decision taken by the Government was communicated to Ranjit Singh S/o Kali Ram *vide* letter dated 22.06.1981 and a copy of the same was also endorsed to Joint Secy., L&B Department in response to its letter dated 17.02.1981.
11. The counter affidavit also discloses that a letter dated 06.06.2012 was sent to Respondent No.1 with a request to seek clearance from the Land and Building Department, Delhi Administration i.e., Respondent No.2 herein, before the case of Respondent No.1 for the desired conversion into freehold could be processed owing to the reason that the L&B department had directed Appellant/DDA not to take any action and keep the cases in abeyance.

12. The counter affidavit further discloses that the Appellant/DDA sent a letter dated 14.08.2014 to Deputy Secretary, L&B Department with a request to intimate the status of investigation carried out in the cases and to verify the genuineness of the recommendation letter dated 05.02.1979. A copy of the said letter was also endorsed to Respondent No.1 (writ petitioner).

13. The learned Single Judge *vide* Order dated 18.03.2021 (impugned herein) has allowed the writ petition by rejecting the stand taken by the Appellant/DDA. The learned Single Judge held that that Perpetual Lease Deed had been executed by the Appellant/DDA way back on 27.10.1980 in favour of the allottee/Shri Ranjit Singh. It was held that after receiving the letter dated 17.02.1981 from the Land and Building Department, Delhi Administration wherein it was reported that allotments had been made on the basis of forged recommendations and documents and the said alleged list included the plot in question, no action has been taken by the Appellant/DDA for about 40 years. The learned Single Judge also held that Government has not taken any interest to pursue the case, nor has any further request been made to the DDA with respect to the said allotment to Mr. Ranjit Singh. The learned Single Judge held that the Government Authorities, including the DDA have not taken any steps to cancel the Perpetual Lease Deed. The learned Single Judge further held that despite issuance of a letter dated 14.08.2014 to the L&B Department, GNCTD seeking the present status of the investigation carried out in the aforesaid cases and to verify the genuineness of the recommendees, the Government has not taken any action. The learned Single Judge allowed the writ petition directing the Appellant/DDA to convert the property from leasehold to freehold in accordance with the policy guidelines of the DDA as requested by Respondent No.1.

14. The Appellant/DDA has approached this Court by filing present LPA challenging the Order dated 18.03.2021 passed by the learned Single Judge in W.P.(C) 3359/2017.

15. Heard learned Counsels appearing for the Parties and perused the material on record.

16. Ms. Manika Tripathy, learned Standing Counsel for the DDA, vehemently contends that the after execution of the Perpetual Lease Deed dated 27.10.1980, the Joint Secretary (L&B), Delhi Administration, forwarded a list of 128 cases *vide* letter F.15(210)80-L&B/7352 dated 17.02.1981 which were reported to on the basis of forged recommendations and the Appellant/DDA was directed not to make any allotment or to execute lease deed and also to revoke the allotment, if any, made. She further submits that another list of 38 cases was also enclosed by L&B Department GNCTD and directed that no action need to be taken in the said 38 cases and they must be kept in abeyance. She submits that the Respondent No.1's case was one of the 38 cases where L&B Department had directed the DDA not to take any action and to keep the cases in abeyance. She submits that Ranjit Singh S/o Kali Ram had also been informed about the decision taken by the Government *vide* letter dated 22.06.1981. Ms. Tripathi submits that allotment had been made on the basis of forged recommendations, and therefore, the Appellant/DDA was well within its rights not to proceed ahead with the application for conversion of the property in question from leasehold to freehold.

17. The said letter F.15(210)80-L&B/7352 dated 17.02.1981 which is the basis of the justification of the DDA for not accepting the application of the Respondent No.1 for conversion of the property in question from leasehold to

freehold is not on record. It has been categorically stated that the concerned files are not traceable. After the year 1981, the Appellant/DDA has not taken any steps to cancel the Perpetual Lease Deed and on the contrary, the Appellant/DDA has granted permission to carry out construction over the property in question. Electricity and water connections have been provided to the property. No action has been taken by the State Government after 1981. The Respondent No.1 has been made to run from pillar to post for his application for conversion of the property in question from leasehold to freehold. Information had also been sought under Right to Information Act, 2005 in respect of the concerned file which is said to have included the plot in question in the list of cases by the Land and Building Department, Government of NCT of Delhi, however, no information has been provided on the ground that the file is not traceable. Appeals were also filed before the Appellate Authority against the non-disclosure of the information under Right to Information Act, 2005 but to no avail.

18. In the absence of any action on the part of the Appellant/DDA and the other authorities, this Court does not find any reason to interfere with the findings of the learned Single Judge. The learned Single Judge was justified in holding that the letter dated 17.02.1981 sent to the DDA which is not on record has to be ignored and that cannot be the basis for denial of right to Respondent No.1 to demand conversion of the property in question from leasehold to freehold. There is nothing on record to show that Ranjit Singh/allotee has committed any kind of fraud in getting the plot in question. As rightly pointed by the learned Single Judge that the Land and Building Department has not specified as to what action it has taken to trace-out the files; whether any Show Cause Notice was issued or any Departmental action

has been initiated against its own officials who may have been responsible for the safe keeping of the files or whether any endeavour was made to recreate the files. There is also nothing on record to show that the Appellant/DDA has taken any Departmental action on its officials who were executed Perpetual Lease Deed nor has Land and Building Department, GNCTD brought on record anything to show as to what action has been taken against its officials who were responsible for making the forged recommendations.

19. In view of the above, the letter dated 17.02.1981 which is not on record cannot become the basis of denial of right to Respondent No.1 to demand conversion of the property in question from leasehold to freehold.

20. In view of the harassment that has been caused to Respondent No.1, this Court is inclined to impose costs of Rs.10,000/- on the DDA.

21. The appeal is, accordingly, dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

JANUARY 06, 2023

S. Zakir