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

Date of decision: 01st SEPTEMBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 11590/2023**

DINESH CHAND JAIN

..... Petitioner

Through: Ms. Aakanksha Kaul, Mr. Samarjit Chauhan, Advocates with Petitioner in person

versus

GOVT OF NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Parvinder Chauhan, Ms. Aakriti Garg, Advocates for DUSIB

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

CM APPL. 45165/2023 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 11590/2023

1. The Petitioner seeks to challenge the Order dated 01.03.2023 passed by the Hon'ble Lieutenant Governor of Delhi, dismissing the revision petition filed by the Petitioner under Section 44 of the Delhi Urban Shelter Improvement Board Act, 2010 (*hereinafter referred to as 'DUSIB Act'*) herein and confirmed the Order dated 24.09.2019, passed by the Director (JJR), DUSIB and Order dated 11.01.2018, passed by the Deputy Director (JJR), DUSIB informing the Petitioner that the competent authority has



cancelled the allotment of plot bearing Tenement No. 2, Double Storey, Welcome, Phase-III, Seelampur, Delhi- 110053 (hereinafter referred to as 'the property in question').

2. It is stated that the property in question was allotted to one Shri Rati Ram S/o Sh. Sujan Singh on 06.07.1968 on license basis. It is stated that the said Rati Ram sold the property in question to the Petitioner herein by way of a GPA dated 24.11.1980.

3. It is stated that in 2017, a survey of the plots was conducted by the Respondent and Show Cause Notices dated 04.09.2017; 18.10.2017 & 07.11.2017 were issued to the petitioner.

4. Since no reply was received from the Petitioner, an ex-parte Order dated 11.01.2018 was passed by the DUSIB cancelling the allotment of the property in question and consequently, an Eviction Order dated 19.01.2018 was also issued against the Petitioner by the Executive Engineer (C-8), DUSIB.

5. Material on record indicates that the Eviction Order dated 19.01.2018 was challenged before the Lt. Governor. It is stated that *vide* Order dated 17.10.2018 the appeal of the Petitioner against order dated 19.01.2018 was remanded to the Director (DUSIB) for adjudication as per law. *Vide* Order dated 24.09.2019, the appeal of the Petitioner was dismissed by the Director (JJR), DUSIB. The said Order was challenged by the Petitioner by filing a Revision Petition before the Lt. Governor under Section 44 of the DUSIB Act. The Lt. Governor, *vide* Order dated 01.03.2023 dismissed the Revision Petition of the Petitioner by holding that the terms and conditions under which the property in question were allotted, prohibited its transfer. It is this Order which has been challenged in the present Writ Petition.



6. Heard learned Counsel appearing for the Parties and perused the material on record.
7. Prior to 2010, various parcels of land belonging to the Delhi Government, Central Government and Municipal Corporation of Delhi were under encroachment and there was no policy in existence for the purpose of rehabilitation of said encroachers. In pursuance of the Judgment of this Court in Sudama Singh v. Govt. Of Delhi, **2010 SCC OnLine Del 612**, the Legislative Assembly of the National Capital Territory of Delhi brought out the Delhi Urban Shelter Improvement Board Act, 2010, and in terms of the DUSIB Act, policies were framed for rehabilitation of the Jhuggi Jhopri dwellers. The DUSIB was to be the nodal agency for relocation and rehabilitation in respect of the dwellers who had encroached upon government lands. Lands were allotted to person who had encroached government lands but were found entitled to rehabilitation under the Policy formulated by the DUSIB.
8. Undisputedly, the property in question was allotted to one Shri Rati Ram S/o Sh. Sujan Singh on 06.07.1968 on license basis. In terms of the license, the licensee was not entitled to undertake any permanent construction on the plot during the period of his/her occupation, nor was he entitled to transfer the possession of the property to any other person by any mode of conveyance. In violation of the terms of the license, the said Rati Ram sold the property in question to the Petitioner herein by way of a GPA dated 24.11.1980. The property in question was sold by the Original allottee in violation of the terms and conditions of the licence and, therefore, the Petitioner was liable to be evicted from the property in question as the sale of the property was not valid and was liable to be cancelled as per the terms



and conditions of the licence.

9. The present case is not the one where the Petitioner seeks to challenge an Order refusing for grant of benefit of a certain scheme to the Petitioner but the present case arises from an Order of eviction because of the violation of the original conditions on which the property in question was allotted.

10. The order of the Lt. Governor indicates that the property could not have been sold by the initial allottee and admittedly the property has been sold to the Petitioner herein which was prohibited under the conditions of licence.

11. The authorities have not erred in cancelling the allotment of property in question on the ground that the initial allottee could not have transferred the plot. All the three authorities have concurrently upheld the cancellation of allotment. The Petitioners have not been able to demonstrate as to how the conclusions arrived at by the authorities are perverse or are in contravention of any policy or the terms and conditions of the allotment.

12. In view of above, this Court does not find any reason to interfere with impugned Order under Article 226 of the Constitution of India.

13. The writ petition is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SEPTEMBER 01, 2023

Rahul