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

+ W.P.(C) 13367/2022 & CM APPL 46474/2022

SHRI BALWANT RAI ARORA

..... Petitioner

Through: Mr. Anand Yadav, Advocate

versus

**DELHI DEVELOPMENT AUTHORITY
& ORS.**

..... Respondent

Through: Ms. Manika Tripathy, standing
counsel for DDA, Mr. Roshan
Kumar, Mr. Manish, Mr. Rishabh and
Mr. Varun, Advocates. Mr. Jaswinder
Singh, Advocate for R-2.
Mr. Ripin Sood, Advocate for R-3.

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Reserved on: 12th January, 2023
Date of Decision: 22nd February, 2023

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

1. The present petition has been filed seeking a direction to the Respondent No. 1, Delhi Development Authority ('DDA'), to restrain itself from either demolishing or dispossessing the Petitioner from the residential property bearing no. 172, Cariappa Marg, Khirki Extn., MB Road, ('the subject property'), situated in Khasra No. 443, Village Khirki, Delhi. The petition states that the subject property is located in the unauthorized colony of 'Khirki Extn., Colony Cariappa Marg, MB Road, New Delhi'.

2. The Petitioner is aggrieved by the action of Respondent No. 1, DDA, to the extent that the officials of Respondent, DDA, have threatened to demolish the subject property, which is in possession and occupation of the Petitioner herein. He is further aggrieved by the demolition order No. LM/SSII/0007/2022/F1/DEMO-SS-II(LM)-II/164 dated 19.10.2022, issued by the Deputy Director (Land Management) S & S II, DDA, during the pendency of the present petition.

3. Learned counsel for the Petitioner states that the Petitioner along with certain other individuals purchased a parcel of land falling in Khasra Nos. 442 and 443, from the earlier owner Sh. Sukhbir Singh, who was in possession of said parcel of land, ad-measuring 4 bigha and 1 biswa. He states that the possession of the said parcel of land was handed over to the purchasers including the Petitioner herein on 28.04.1987. He states that thereafter, the said parcel of land was partitioned between the purchasers; and the portion of land falling in Khasra No. 443 came under the control and possession of the Petitioner, wherein he has constructed the subject property. He states that in pursuance to the aforesaid, changes were carried out in *Khasra Girdawari* recording the Petitioner herein as the cultivator with rent.

4. He states that the Petitioner being aggrieved by the threats of demolition of the subject property by the Respondent, DDA, filed a civil suit for permanent injunction before this Court, wherein this Court vide its order dated 07.03.1990, directed the parties to maintain *status quo* with respect to Khasra Nos. 442 and 443. The said civil suit was subsequently transferred to the Civil Judge, West District, Tis Hazari Courts, Delhi ('Trial Court'). He states that the said suit was renumbered as C.S SCJ No. 7455/16 and was thereafter dismissed by the Trial Court vide its judgment dated 24.12.2021,

holding that the Government of India is the recorded owner of the subject property and the Petitioner herein has failed to prove his title. The Trial Court declined the relief of permanent injunction.

5. He states that the Petitioner being aggrieved by the aforesaid decision dated 24.12.2021, preferred an appeal bearing RCA No. 7/2022, which also came to be dismissed *vide* order dated 24.08.2022, holding that the Petitioner herein has failed to prove his ownership. He states that no further appeal was filed against the said order dated 24.08.2022 and instead the present writ petition has been filed on 12.09.2022 for seeking an injunction against the Respondent, DDA.

6. He states that the present petition has been filed seeking protection against dispossession and demolition, relying upon the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 ('Act of 2011') as the subject property falls in an unauthorised colony known as Khirki Extn., Colony Cariappa Marg, M.B. Road, New Delhi. He states that he relies upon the second amendment Act of 2021 i.e. the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2021, which has amended Section 1(4) of the Act of 2011 and has extended the protection to the residents of unauthorised colonies against any action, until 31.12.2023.

7. During the course of oral arguments, he relied upon an order dated 17.08.1998, passed by a Division Bench of this Court, in W.P.(C) No. 4771/1993, wherein the Court directed the Respondent to not undertake selective demolition action in an unauthorised colony. He also relies on the statement made by the Additional Solicitor General ('ASG') on 17.05.2022 in W.P.(C) 6455/2015 that the unauthorised construction raised in

unauthorised colony of Sainik Farms is protected by amended Act of 2011, up to 31.12.2023.

8. In reply, learned standing counsel for the Respondent, DDA, states that the subject property falls in Khasra Nos. 442 and 443, village Khirki, Tehsil Saket, which is a government land inasmuch as the parcel of land falling in Khasra No. 442, measuring 17 biswas, and Khasra No. 443, measuring 3 Bighas and 4 Biwas was under the ownership of Ministry of Rehabilitation ('MoR'), Government of India and that it was transferred to the Respondent, DDA, by the MoR, *vide* a package deal of 02.09.1982. She further states that physical possession of the same was transferred to the Respondent, DDA, on 22.12.1987 and 23.12.1987.

9. She states that later on, the land of Khasra Nos. 442 and 443, was also acquired by the Government of India for planned development of Delhi under the Land Acquisition Act, 1894, ('Act of 1984') *vide* Award No. 20/87-88. She states that it is clearly mentioned at point no. 6 in the said Award that the ownership of some Khasra numbers, which also included Khasra No. 442 and 443, lies with the custodian department and is already entered as a government land in the revenue records.

10. She states that the civil suit filed by the Petitioner seeking permanent injunction against demolition has been dismissed by the Trial Court and the said judgment has been upheld in appeal by the appellate Court (hereinafter collectively referred to as 'Civil Courts').

11. She states that the Civil Courts after perusing the evidence, have returned a categorical finding as regards absence of title against the Petitioner and therefore, the present petition agitating the same issue for identical reliefs is not maintainable.

12. She states that the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Act, 2019 ('Act of 2019') has been enacted to confer ownership rights to the residents in the enlisted unauthorised colonies; and to decide the issue of 1797 unauthorised colonies.

12.1. She further states that the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Regulations, 2019 ('2019 Regulations') have also been notified on 29.10.2019.

12.2. She states that under the 2019 Regulations, it has been resolved to confer ownership rights to the residents of 1731 unauthorised colonies and 69 'affluent unauthorised colonies' have been excluded as per clause (a) of Regulation 7. She states that Khirki Extn., Colony Cariappa Marg, MB Road, is a part of the list of 69 'affluent unauthorised colonies' which are not entitled to conferment of ownership rights. She states that the ownership rights of the residents of the said 69 'affluent unauthorised colonies' are not under consideration, as per the Act of 2019 and therefore, the Petitioner is not entitled to perpetuate his unauthorised stay at the government owned land.

12.3. She states that in view of the exclusion of Khirki Extn., Colony Cariappa Marg, MB Road, New Delhi, from the 2019 Regulations, the Petitioner is not entitled to any protection under Act of 2011.

13. She states that the order dated 17.08.1998 was passed by the Division Bench of this Court in W.P.(C) No. 4771/1993 pending the final decision on regularisation; and prior to the enactment of the Act of 2019 as well as the 2019 Regulations.

14. She states that with respect to the statement made by the ASG on 17.05.2022, in W.P.(C) 6455/2015, the matter is under consideration for seeking clarification from the Ministry of Housing and Urban Affairs, Govt. of India.

15. This Court has considered the submissions of the counsel for the parties and has perused the paper book.

16. It is a matter of record that the Petitioner herein as per his own case came in possession of the suit land on 13.04.1987 and immediately thereafter he instituted a civil suit on 06.03.1990 against the Respondent, DDA, seeking permanent injunction against them from interfering in the possession of the Petitioner, on the basis of title.

17. Issues were framed in the said civil suit on 23.08.2010; issues relevant for deciding this petition reads as under:

“1. Whether the plaintiff is entitled to decree of permanent injunction to restrain the defendant not to interfere in the peaceful and physical possession of plaintiff? OPP

2. Whether the plaintiff is entitled to decree of permanent injunction to restrain defendant from demolishing the structure of suit land for dispossessing the plaintiff? OPP

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5. Whether plaintiff is in possession of suit property? OPP”

18. The findings of the Trial Court in its judgment dated 24.12.2021, with respect to Issue Nos. 1, 2 and 5 are relevant and read as under:

“My issue wise findings are as under

Issue no 1

Whether plaintiff is entitled to decree of permanent injunction to restrain the defendant not to interfere in the peaceful and physical possession of plaintiff? OPP

Issue no 2

Whether plaintiff is entitled to decree of permanent injunction to restrain defendant from demolishing the structure of suit land for dispossessing the plaintiff? OPP

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17. In the present case, the plaintiff has claimed to be the owner of the suit premises on the basis of documents mentioned in para 7A of amended plaint. Even though the scope of present suit is limited to injunction and separate issue of title was framed in the present case, still this court will find whether the plaintiff is the owner of the suit premises as alleged in the plaint since plaintiff has claimed to be the owner and DDA has also claimed to be the owner of the suit property and also due to the fact that even possession of the plaintiff is disputed by the defendants.

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21. In the plaint, the plaintiff has claimed to be the owner of the suit premises. Lets see, if the plaintiff has proved that he is the owner of the suit premises. It is settled law that merely paying revenue to the government, in the form of taxes, will not give a person title on the suit premises. In this eventuality the documents Ex PW 1/ 3 to Ex PW 1/8 (house tax assessment and receipts) are of no help to the plaintiff. Similarly, Mark A, Ex PW 1/ 10 and Ex PW 1/ 11 are documents pertaining to electoral roll and voter ID card of the plaintiff and his wife. These documents also does not prove the title of the plaintiff in the suit premises.

22. Ex. PW 1/1 is the agreement between plaintiff (as the buyer) and Sh. Sukhbir Singh, Sh. Satbir Singh sons of Sh. Narain Singh, Sh. Serup Singh, Bani Singh sons of Sh. Maha Singh, Amar Singh, Surat Singh sons of Sh. Khima (as the seller). The said agreement recites that the seller are in peaceful cultivating possession for long of agricultural land comprised in Khasra No 442-443 measuring 04-01 situated in the revenue estate of village Khirki, Delhi. It further recites that the plaintiff has agreed to take possession of the above mentioned land from the sellers for a consideration of Rs. 80,000/-. Ex. PW 1/1 is a notarised document. Ex PW 1/1 is not a sale deed and it is not even registered with sub-registrar. Ex PW 1/1 does not even mention the previous chain of documents. It does not appear that any stamp duty was paid by the plaintiff upon Ex PW 1/1. In this eventuality, Ex PW 1/1 does not transfer any title upon the plaintiff with respect to suit premises.

23. Ex PW 1/ 2 is merely an affidavit between the buyer and seller of agreement Ex PW 1/1. The Jamabandi (Ex PW 1/14) does not record the name of the plaintiff with respect to suit premises. Similarly, the electricity bill and water bill in the name of the plaintiff does not prove that he is owner

of the suit premises.

24. Coming now to the cross- examination of PW-1, in the plaint the plaintiff has claimed to be owner of the Khasra no 443 measuring 3 Bighas and 2 Biswas in village Khirkee, Tehsil Mehrauli. During cross-examination, PW-1 has stated that "As per that document land measuring 4 biga 1 biswa of the land bearing Kh. No 442 and 443 was purchased by myself, Jaswant Arora, Baldev Arora and Mukesh Arora". The documents in reference were Ex PW 1/1 and Ex PW 1/2. During cross examination, PW-1 further conceded that he has not impleaded other three purchasers in the present case. PW-1 further stated in his cross- examination that the Khasra disputed has been divided between four purchasers and division was not taken place in writing and other purchaser are in possession of Kh no. 443. Further during the cross-examination, PW-1 again stated that the present case is with respect to Kh. 443 and 442. It appears that witness PW-1 i.e. plaintiff is himself not aware about the Khasra number of which he is owner. PW-1 further in the cross-examination has conceded that no sanctioned site plan of the property has been filed by him. PW-1 further in the cross-examination has conceded that the Jamabandi filed by him does not show the sellers of Ex PW-1 in Ex PW-1/ 14. In the document marked as Mark P/D1 i.e. Khasra Girdawari of the year 1989, in the second column, the owner of Khasra no 442 and 443 is shown as Government of India, Ministry of Rehabilitation.

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33. In the present case, plaintiff is found to be not the owner of the suit premises. Moreover, the injunction is sought against the agencies or authorities of the government in which government and its agencies or authorities are itself owner of the property. In the document marked as Mark P/D1 i.e. Khasra Girdawari of the year 1989, in the second column, the owner of Khasra no 442 and 443 is shown as Government of India, Ministry of Rehabilitation. Ex PW 9/1 and Ex PW 9/2 states that possession of the Khasra no 443 has been handed over to representative of the DDA. This court is of the opinion that no permanent injunction can be granted in favour of the plaintiff and against the defendants as the plaintiff has not come before the court with clean hands. Further, the statutory authorities cannot be restrained to take action against the plaintiff in case they find plaintiff to be in wrongful possession.

Hence, issue no 1 and 2 are decided against the plaintiff.

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Issue no 5

Whether plaintiff is in possession of suit property? OPP

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43. Mark P/D1 i.e. Khasra Girdawari of 1989 shows name of plaintiff and his brothers in Khasra no 443. Plaintiff is shown to be in cultivation of 3 Bighas and 2 Biswas. In column no 6 and 7 of Mark P/D1 it is also mentioned “Makan Char Diwari” (Hindi). In column no 2, the owner of Khasra no 443 is shown as Government of India, Ministry Rehabilitation. Ex PW 1/3 is the house tax assessment and Ex PW 1/ 4 to Ex PW 1/8 are house tax receipts. Plaintiff and his wife have also filed voter ID card (Ex PW 1/10 and Ex PW 1/11) to show his current residence. Plaintiff also filed Mark A to show his addition in the names of voters list of the area.

45. Considering all the material on record, this court comes to the conclusion that currently plaintiff is in possession of the suit premises. **The plaintiff has not been able to prove the exact date of possession, when he came into possession of suit premises.**”

(Emphasis Supplied)

19. The judgment of the Trial Court was assailed by filing a Regular Civil Appeal and the appellate Court vide order dated 24.08.2022, after evaluating the evidence upheld the judgment of the Trial Court and returned finding on issue Nos. 1, 2 and 5 which reads as under:

“Issue No.1. Whether the plaintiff is entitled to decree of permanent injunction to restrain the defendant not to interfere in the peaceful and physical possession of plaintiff? OPP.

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33. Plaintiff has examined PW-2, office bearer of RWA to prove his possession. The witness could neither prove that the property in question is situated in khasra no.443 nor that the plaintiff is the owner of the suit property. All other witnesses examined by the plaintiff could not prove the said fact as stated above. The said witnesses produced documents with respect to property no.172, Cariappa Marg, New Delhi. The plaintiff has failed to prove that the property no.172, Cariappa Marg, New Delhi is the same as claimed by him to have purchased from the erstwhile owners falling in khasra nos.442-443. No relation between the property no.172, Cariappa Marg, New Delhi and the one allegedly purchased by the plaintiff through agreement to sell has been established. Witness PW-9 who appeared from the Revenue Department categorically stated that the property in question has been acquired by the government. No other revenue official has been examined by the plaintiff to prove that the property in question has not been acquired. No re-examination of the witness was proposed by the plaintiff once he deposed against him in the

cross-examination.

34. The plaintiff has thus failed to prove that the property no.172, Cariappa Marg, New Delhi falls in khasra no.443 or that he is the owner of the said property.

35. Once, the plaintiff has claimed his ownership over the suit property and has approached this court to seek redressal in the form of restraintment of government authorities permanently from taking any action against his property, he was required to prove that he is the owner of the property as claimed by him which he has miserably failed. Hence, he is not entitled to claimed relief. This issue is decided against the plaintiff.

Issue No.2. Whether the plaintiff is entitled to decree of permanent injunction to restrain defendant from demolishing the structure of suit property for dispossessing the plaintiff? OPP.

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38. Moreover, injunction is a discretionary relief which can be granted to the true owner only. The plaintiff has not only failed to prove his ownership but also failed to prove that the property has not been acquired. Having failed to prove his ownership over the property, the plaintiff is not entitled to claim relief. Even otherwise, the court cannot pass a restraintment order against the government authorities permanently from taking any action against any person in case he violates any law. It has also come on record through the evidence led by other witnesses of the plaintiff that the property has been constructed without any sanction plan. In view of the same, the said relief is declined. This issue is also decided against the plaintiff.

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Issue No.5. Whether plaintiff is in possession of suit property? OPP.

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48. Documents relied upon by the plaintiff prove his possession over property no.172, Cariappa Marg, New Delhi but not on one as claimed by him in the suit filed by him. Hence, it cannot be held that the plaintiff is in possession of the suit property. This issue is accordingly decided against him."

(Emphasis Supplied)

20. The Petitioner herein has elected not to assail the order dated 24.08.2022 in second appeal. Therefore, the aforesaid findings of the Civil Courts holding that the Petitioner herein has no title with respect to the

subject property and the Respondent, DDA, is the owner, have attained finality. In fact, during the course of arguments learned counsel for the Petitioner conceded that in view of the said findings, the Petitioner is not contending that he is the owner of the subject property and admits the title of the Respondent, DDA.

21. In the proceedings before the Civil Courts, a specific issue, i.e. *Issue No. 2*, was framed with respect to an injunction to restrain the Respondent, DDA, from demolishing the structure of the subject property and of dispossessing the Petitioner herein. The said issue has been specifically decided against the Petitioner in the civil suit after a protracted trial, which lasted 21 years [from 06.03.1990 till 24.12.2021]. The prayers sought in the present petition are identical with prayers in civil suit and are reproduced as under:

Prayer sought in the Writ Petition	Prayers sought in the Civil Suit C.S SCJ No. 7455/16
a) directing the Respondents or its officials not to demolish house/ property of Petitioner bearing no. 172, Cariappa Marg, Khirki Extn. M B Road, Delhi, which is part of unauthorized colony known as Cariappa Marg, Khirki Extension, M B Road, Delhi and is comprising in Khasra No. 443 situated in the revenue estate of Village Khirki, Delhi;	(a) Decree for permanent injunction in favour of plaintiff and against defendants, restraining defendants, their officers, employees, their agents and representatives etc. not to interfere in the peaceful, physical possession of the plaintiff on the suit land comprised in Khasra No. 443 (3-2) situated within the revenue estate of Village Khirkee Tehsil Mehrauli in the Union Territory of Delhi.
b) Restrain the Respondents or its officials from dispossessing Petitioner from his house/property bearing no. 172, Cariappa Marg, Khirki Extn. M B Road, Delhi, which is part of unauthorized colony known as Cariappa Marg, Khirki Extension, M B Road, Delhi and is comprising in Khasra No. 443 situated in	(b) Decree for permanent injunction thereby restraining the defendants from demolishing the structures on the suit land or dispossessing the plaintiffs from the suit land.

the revenue estate of Village Khirki, Delhi.	
c) Any other order	(c) Any other order

22. In view of the identical nature of the prayers, the reliefs sought in the present writ petition are barred, in view of the judgments of the civil courts, by *res judicata*, as per the principles enshrined in Section 11 of Code of Civil Procedure, 1908 ('CPC'). The Supreme Court in the case of ***Sulochana Amma v. Narayanan Nair, (1994) 2 SCC 14***, has held as under:

"9. Shri Sukumaran further contended that the remedy of injunction is an equitable relief and in equity, the doctrine of res judicata cannot be extended to a decree of a court of limited pecuniary jurisdiction. We find no force in the contention. It is settled law that in a suit for injunction when title is in issue for the purpose of granting injunction, the issue directly and substantially arises in that suit between the parties. When the same issue is put in issue in a later suit based on title between the same parties or their privies in a subsequent suit the decree in the injunction suit equally operates as res judicata....."

(Emphasis Supplied)

23. The plea of the Petitioner that the relief sought in the present petition is premised on a distinct and fresh plea of Act of 2011, which was not raised in the civil suit, is untenable in view of Explanation IV to Section 11 of CPC, which reads as under: -

"Explanation IV.— Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit."

23.1. The Supreme Court in the case of ***Forward Construction Co. and Anr. v. Prabhat Mandal (Regd.), Andheri & Ors., (1986) 1 SCC 100***, has held as under:

"20. So far as the first reason is concerned, the High Court in our opinion was not right in holding that the earlier judgment would not operate as res

judicata as one of the grounds taken in the present petition was conspicuous by its absence in the earlier petition. Explanation IV to Section 11 CPC provides that any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit. An adjudication is conclusive and final not only as to the actual matter determined but as, to every other matter which the parties might and ought to have litigated and have had it decided as incidental to or essentially connected with the subject matter of the litigation and every matter coming within the legitimate purview of the original action both in respect of the matters of claim or defence. The principle underlying Explanation IV is that where the parties have had an opportunity of controverting a matter that should be taken to be the same thing as if the matter had been actually controverted and decided. It is true that where a matter has been constructively in issue it cannot be said to have been actually heard and decided. It could only be deemed to have been heard and decided. The first reason, therefore, has absolutely no force.

(Emphasis Supplied)

24. The civil suit was filed on 06.03.1990 and judgment therein was reserved on 21.12.2021. The Act of 2011, which is sought to be relied on in present proceedings was enacted on 23.12.2011 and therefore, was a plea available to the Petitioner in the trial proceedings. The Petitioner having elected to not urge the said plea is bound by the final judgment passed in the civil suit and he cannot be permitted to maintain the present petition for identical relief.

25. It is pertinent to mention here that Supreme Court in ***K.K. Modi v. K.N. Modi, (1998) 3 SCC 573***, has held as under:

“44. One of the examples cited as an abuse of the process of court is re-litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which has already been tried and decided earlier against him. The re-agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court.”

26. Notwithstanding the finding hereinabove with respect to non-maintainability on account of *res judicata*, even otherwise as stated by

the Respondent, DDA, that the unauthorised colony known as Khirki Extn., Colony Cariappa Marg, MB Road, has been excluded from the purview of 2019 Regulations; and therefore no ownership rights are being conferred to the residents of the said colony, existing on government land. The reliance placed by the Petitioner on the list of 1432 unauthorised colonies, published earlier is misconceived as the Respondent, DDA, has rightly pointed out that final list of unauthorised colonies to be regularized is annexed to the 2019 Regulations as Annexure – II and the Petitioner's colony is not enlisted therein.

27. The Khirki Extn., Colony Cariappa Marg, MB Road, finds mention in Annexure – 1 and has been specifically excluded as per clause (a) of Regulation 7 of 2019 Regulations, which reads as under:

“7. Exclusion. – Under these regulations, no rights shall be conferred or recognised-

(a) over prohibited land, that is, land falling in reserved or notified forests, land identified as protected or prohibited area by the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), land falling in Zone-O, Yamuna Flood Plain, land falling in right of way of existing roads and Master Plan Roads, land under right of way of high tension lines, land falling in ridge area of Delhi and land reserved or protected under any other law for the time being in force;”

28. Section 3(4) of the Act of 2019, which pertains to recognition of property rights of residents in unauthorised colony stipulates the eligibility of a resident as under:

“3. Recognition of property rights.-

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(4) Any resident of an unauthorised colony having registered or un-registered or notarised Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration shall be eligible for right of ownership or transfer or mortgage through a conveyance deed or authorisation slip, as the case may be, on payment of

charges referred to in sub-section (2).”

Similarly, the definition of resident under clause (f) of regulation 2 of 2019 Regulations stipulates as under: -

*2. Definitions. – In these regulations, unless the context otherwise requires, –
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(f) "resident" means a person having physical possession on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, Possession letter and other documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user;”

28.1. However, in the case of the Petitioner herein, the appellate Court in its judgment dated 24.08.2022 has returned a finding that the unregistered agreement to sell, relied upon by the Petitioner does not even pertain to the subject property. Thus, the Petitioner herein has no document in his favour as contemplated in Section 3(4) of the Act of 2019 and the definition under the 2019 Regulations; and is therefore, even otherwise ineligible and not entitled to any consideration under the Act of 2019 or the 2019 Regulations.

29. In this matter the earliest evidence brought on record to show the Petitioner's occupation of the subject property, is the *Khasra Girdawari* for the year 1989. It is evident that the Respondent, DDA, immediately objected to the said occupation, which led to filing of the civil suit on 06.03.1990 for permanent injunction. The Respondent, DDA, succeeded in the civil suits after a protracted trial, spread over 21 years. In the facts of this case, it is evident from the record that the Respondent, DDA, has been diligently pursuing its rights over the said land and the Petitioner herein had no reason to believe that the DDA was contemplating regularizing/recognizing the Petitioner's property rights under the Act of 2019 or the 2019 Regulations.

30. The reliance placed by the Petitioner on the proceedings of the writ petitions with respect to the unauthorised colony of Sainik Farms are also of no avail in view of the successive orders of the Civil Courts suffered by the Petitioner, in the proceedings initiated by him. Even otherwise, Sainik Farms is a colony built on private land whereas the suit land has admittedly been found by the Civil Court to be a government owned land.

31. In view of the aforesaid findings, the present writ petition is dismissed with costs of Rs. 25,000/- payable to the Respondent, DDA, within a period of two weeks. The pending application also stands dismissed.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 22, 2023

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