



\$~111

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

% **Date of decision: 26th September, 2024**

+ **W.P.(C) 17694/2022**

NOVEL TRADE LINKS LLP & ORS.Petitioners

**Through: Mr. Anukrit Gupta and Mr.
Arbaaz Hussain, Advs.**

versus

DELHI DEVELOPMENT AUTHORITY & ORS.

Respondents

**Through: Ms. Shobhana Takiar, SC with
Ms. Chand Chopra, Ms. Neha
Bhupathiraju and Mr. Kuljeet
Singh, Advs. for R-1/DDA.**

**Ms. Rachita Garg, Mr. Agam
and Ms. Preeti, Advs. for R-3.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 55898/2024 – FRESH BY PETR. FOR DIRECTIONS

1. This application is moved on behalf of the applicants/petitioners seeking the following directions:

“a) pass appropriate directions against the Respondent No. 1/DDA and Respondent No. 3/SDM to take necessary measures for carrying out the demarcation process of the Petitioners’ cluster of land admeasuring 45.55 acres (218 Bigha — 13 Biswa) located in urbanized area called Bakhtawarpur, Delhi; and/or

b) pass such other and further order(s) as this Hon’ble Court may deem fit and proper in the interest of justice.”

2. Learned counsels for the respondents No. 1, 2 and 3 are present on advance notice.



3. Learned counsel for respondent No.3 submits on instructions that the revenue authorities are ready and willing to provide any assistance to the officials of the respondent No.1/DDA¹ to carry out the demarcation process.
4. Shorn of unnecessary details, the instant application has been moved in the writ petition, which already stands disposed of *vide* order dated 11.12.2023. The applicants/petitioners are claiming themselves to be the lawful owners in possession of the cluster of land admeasuring 45.55 Acres (218 Bigha 13 Biswa) situated in village Bakhtawarpur, Delhi (hereinafter referred to as 'the subject land'). According to the petitioners, they are utilizing the said land for agricultural/farming purposes.
5. *Vide* Notification No. F7(128)/DLB/2019/000580156/14600-15 dated 20.11.2019 issued by the Department of Urban Development, Village Bakhtawarpur was declared as urbanized. Subsequently, *vide* Notification dated 25.09.2020, Ministry of Housing and Urban Affairs, Government of India, vested the subject land with Delhi Development Authority for the purposes of development and maintenance.
6. It is the case of the petitioners that *vide* letter dated 25.03.2022, they requested respondent No. 3 to demarcate the subject land. Respondent No. 3 *vide* letter dated 13.04.2022 informed the petitioner No.1 that Village Bakhtawarpur has been notified as urbanized, and hence, the necessary proceedings for demarcation of the subject land will be carried out by the DDA/MCD. Respondent No. 3 further

¹ Delhi Development Authority



informed petitioner No. 1 that the Revenue record will be provided to the concerned Agency as and when the date of demarcation is fixed. Subsequently, *vide* letter dated 24.06.2022, petitioners sought permission of respondent No. 3 to erect the boundary wall on the subject land and also sought a clarification from respondent No. 2 *vide* letter dated 28.06.2022 to construct the boundary wall on the periphery of the subject land in view of Chapter-II Clause 2.0.1. of the Unified Building Bye-Law (UBBL) Delhi, 2016.

7. It appears that despite issuing several reminders to the respondents, there was no response, and thus, on issuance of notice on the writ petition, this Court *vide* order dated 11.12.2023 passed the following order:

- “1. Learned counsel appearing on behalf of the petitioners submitted that the SDM concerned has passed certain orders in similar other cases which is appended as Annexure 7 along with the instant writ petition and prayed for directions to SDM to consider their cases in the light of the order dated 16th July, 2021.
2. Learned counsel appearing for the SDM vehemently opposed the captioned writ petition, however, it is submitted that he has no objection to the prayer made by the learned counsel appearing on behalf of the petitioners.
3. Heard.
4. In view of the above facts and circumstances and the request made by the learned counsel appearing on behalf of the petitioners, and no objection on behalf of the SDM, the petitioners are directed to file a detailed representation to the SDM concerned along with the copy of the order dated 16th July, 2021, which is appended as Annexure 7, within a week and after receiving the said representation, the SDM concerned shall, after considering the order dated 16th July, 2021, pass an order on the representation of the petitioners, after giving a personal hearing to the petitioners expeditiously, preferably within three weeks.
5. Petition is accordingly disposed of, along with pending application, if any.”

8. However, the matter did not end there. The applicant/petitioner



has moved CM APPL. 10836/2024 and submission of the learned counsel for the petitioners was recorded to the effect that although they approached the concerned SDM², he expressed his inability to proceed with the prayer sought, owing to the fact that in terms of judgment of the Division Bench in the case of **Kamaljeet Bajwa v. Government of NCT of Delhi**³, it has been held that authorities under the Delhi Land Reforms Act or Delhi Land Revenue Act do not have jurisdiction over the villages, which have been urbanized in terms of the notification. In the said backdrop, the petitioners sought direction to the DDA to complete the process of demarcation of the subject land situated in Village Bakhtawarpur, Delhi. Eventually, the following directions were passed by this Court *vide* order dated 01.03.2024:

“6. Considering the aforesaid, it is directed that the petitioners shall file a detailed representation before the DDA. Upon the petitioners submitting the requisite representation, the DDA shall give a personal hearing to the petitioners and thereafter dispose of the representation by way of a speaking order. The said exercise shall be carried out by the DDA expeditiously, preferably within a period of four weeks after receipt of representation from the petitioners.”

9. At the cost of repetition, learned counsel for the respondent No. 3 submitted that the officials of the revenue department are ready and willing to cooperate or provide any assistance to the officials of the DDA to carry out the demarcation process. However, learned counsel for the respondent No.1/DDA submitted that the Division Bench in a matter titled as **Court on its own motion v. L&DO, Ministry of**

² Sub Divisional Magistrate

³ 2023 SCC OnLine Del 4192



Urban Development⁴, on a report submitted by DSLSA⁵ has taken cognizance of insurmountable problems being faced by the people in hitherto rural areas concerning mutation of the properties, as well as the demarcation of land on urbanization of any village or area. A copy of the order has been shared wherein the following observations were made:

“6. Though the non-applicability of the Land Reforms Act to villages post their urbanization is no more res integra in view of law laid down by this Court in *Indu Khorana v. Gram Sabha, 2010 SCC OnLine Del 1334* and by the Supreme Court in *Mohinder Singh v. Narain Singh, 2023 SCC OnLine SC 261*, yet there is complete absence of any law/policy/guidelines/rules whereby rights of mutation can be availed by the residents of such villages before the appropriate forum i.e., the concerned subsequent land-holding agency whether it be the Municipal Corporation of Delhi, the Land and Development Office (L&DO) of the Ministry of Housing and Urban Affairs, Government of India or the Delhi Development Authority in case of such lands being notified as 'development areas' under the provisions of Section 12 of the Delhi Development Authority Act, 1957.

7. The absence of a documentation mechanism by land-owning agencies post-urbanization disproportionately affects the urban poor. Lack of formal property rights evidence prevents access to credit facility for construction and renovation to benefits from government schemes or participation in land pooling policy of the Delhi Government. Such a legal vacuum disabling the villagers from managing their immovable properties prima facie violates their fundamental right under Article 21 and constitutional right under Article 300A of the Constitution of India, and accordingly needs to be addressed at the earliest, by the concerned departments/government agencies.”

10. In view of the above, the Division Bench has issued notices to the Land & Development Officer, Ministry of Urban Development, Commissioner of Municipal Corporation of Delhi, DDA, Secretary

⁴ WP(C) 12453/2024 dated 04.09.2024

⁵ Delhi State Legal Services Authority



(Revenue), as well as Member Secretary, DSLSA and the matter is now stated to be listed for hearing on 25.10.2024.

11. Having heard the learned counsels for the parties, it is not understood as to why there is opposition by the learned counsel for the respondent No.1/DDA not to pass any directions with regard to demarcation of the land in question. **First things first**, the issue of demarcation arose much before the notification was issued for urbanization of the Village Bakhtawarpur and other areas in terms of the notification dated 20.11.2019 under Section 507 of the Delhi Municipal Act, 1957 [**“DMC Act”**]. Evidently, subject property is being used for cultivation of various crops and there was raised an issue about the subject property being in close proximity to dense flora, venturing of certain animals on the subject land as a regular occurrence, leading to destruction and damage of the crops in the subject land and in the absence of the demarcation, the petitioners were not able to erect boundary wall on the subject land.

12. During the course of arguments, learned counsel for the applicants/petitioners alluded to the decision of this Court in the case of **Surjit Kaur v. State of NCT of Delhi**⁶, where the property was falling in the revenue estate of village Khera Kalan, Tehsil Alipur, District North, Delhi stood urbanized *vide* notification dated 20.11.2019 under Section 507(a) of the DMC Act. A Co-ordinate Bench of this Court in the aforesaid case on noticing verdict of the Supreme Court in the case of **Mohinder Singh (dead) through LRs**

⁶ W.P. (C) 8663/2023 dated 19.12.2023



v. Narain Singh⁷ and also **Kamaljeet Bajwa** (*supra*), and since it was urged on behalf of the DDA that they do not have record of the subject land, disposed of the petition with the direction to respondent No.1/ GNCTD to transmit the land records in respect of village Khera Kalan, Tehsil Alipur, District North, Delhi to the DDA within 06 weeks with further direction to the DDA to undertake demarcation of the subject land upon a fresh application to be made to them by the petitioner, within 06 weeks of such application.

13. Insofar as the decision of the Supreme Court in the case of **Mohinder Singh (dead) through LRs** (*supra*) is concerned, it pertained to a ruling by the High Court of Delhi, which held that once a rural area is urbanized by the issuance of a notification under Section 507(a) of the DMC Act, it ceases to be governed by the provisions of the Delhi Land Reforms Act, 1954. Consequently, it was held that the proceedings under the Land Reforms Act were rendered *non est in law*, leaving the parties to agitate their claims/disputes before the appropriate Fora, with all legal pleas remaining available to the parties before the appropriate Forum. The Supreme Court upheld the decision of the High Court Delhi.

14. I had an occasion to consider the same issues in a case titled **Baldev Singh v. Neha Bansal**⁸, wherein the land of the petitioners was sought to be acquired *vide* notification issued under Section 4 of the Land Acquisition Act, 1894, which eventually lapsed, becoming non-applicable and expired. However, after long litigation, when the

⁷ 2023 SCC OnLine SC 261

⁸ CONT CAS (C) 776/2019 dated 16.08.2024



petitioners, who were the owners of the land, approached the revenue authorities for mutation, they were refused on the grounds that the Government had become recorded owner in the meantime, and that mutation could only be effected by the MCD. In the considered view of this Court, it was held that the refusal by the revenue authorities to carry out the mutation of the property in their records was not sustainable, as mutation by the MCD under the provisions of DMC Act is only for the purposes of imposition of assessment and levy house tax besides making available other services that are being provided by the MCD. It would be pertinent to reproduce the relevant observations made by this Court that go as under:

“7. A bare perusal of Section 26⁹ and 27¹⁰ of Delhi Land Revenue Act, 1954 [“DLRA”] would show that it is the Deputy Commissioner who is enjoined upon to make corrections of any mistake or error in the Annual Register maintained in terms of Section 21¹¹ of the DLRA. Incidentally, the designation „Deputy

⁹ 26. Correction of mistake or error in Annual Register—The Deputy Commissioner may, on his own motion and, shall, on the application of any person, correct any mistake or error in the Annual Register.

¹⁰ 27. Settlement of disputes as to entries in Annual Register—(1) All disputes regarding entries in the Annual Register based on the question whether a particular area of land is held and occupied for a public purposes or a work of public utility' shall be referred to the Deputy Commissioner, who shall direct the party concerned to obtain a declaration of the Chief Commissioner under subsection (4) of Section 1 of the Delhi Land Reforms Act, 1954.

(2) All other disputes regarding entries in the Annual Register shall be decided by the Tehsildar on the basis of possession.

(3) If in the course of an inquiry into a dispute under sub-section (2), the Tehsildar is unable to satisfy himself as to which party is in possession, he shall ascertain by summary inquiry who is the person best entitled to the land, and shall put such person in possession.

(4) No order as to possession passed under this section shall debar any person from establishing his right to the land in any civil or revenue Court having jurisdiction. Explanation—The term „possession' in this section means possession based on admission, succession, transfer or lease referred to in Section 22.

¹¹ 21. (1) The Deputy Commissioner shall maintain the records-of-rights, and for that purpose shall annually, or at such longer intervals as the Chief Commissioner may direct, cause to be prepared an amended register mentioned in section 20; and the register so prepared shall be called the Annual Register.

(2) The Deputy Commissioner shall cause to be recorded in the Annual Register all changes that may take place and any transaction that may affect any of the rights or interests recorded, and shall therein correct any errors proved to have been made in the record-of-rights of in any Annual



Commissioner“ as per Section 3(2) of the DLRA means the „Collector“. It is also pertinent to mention that Chapter IV of the DLRA also provides for “Revision of Maps & Revenue Records” under the aegis of the Chief Commissioner of Delhi.

8. Insofar as the decision in Kamaljeet Bajwa (supra) is concerned, it has no application in the instant matter since it was a case where there were common land disputes amongst the parties with regard to demarcation of their respective land and it is only in the said backdrop it was held that once an area is urbanized, the Revenue Authorities cease to have any say in such land. Anyhow, it is also pointed out that the said decision is under review and the matter is pending adjudication before the Division Bench of this Court.

9. In the instant matter, evidently, the land in question had been sought to be acquired under the Act and eventually, the relevant notification under Section 4 of the Act and the consequence thereof, were held to be inoperative. It was also recorded that no fresh notification had been passed under Section 6 of the Act till the date of judgment and the period of two years prescribed under Section 43(2) of the Land Acquisition (Amendment and Validation) Act, 1967 had also lapsed.

10. Therefore, the ball certainly remains in the court of the Revenue Authorities to correct the entries in the revenue record and show the petitioners as Bhumidars/Land owners of the land in question.”

15. All said and done, the real issue is which authority would demarcate the property that was previously classified as a rural area, as defined under Section 2(52) of the DMC Act. While the aspect of mutation requires no further clarification, regarding the demarcation of land in an area urbanized by the State, and to ensure uniformity in this Court’s approach to demarcation issues, as laid down in the case of Surjit Kaur v. State of NCT of Delhi (supra), respondent No. 3, the Sub-Divisional Magistrate of Alipur, is directed to transmit the land records related to the property in question to respondent No. 1, the DDA, within four weeks from today, with intimation to the

Register previously prepared. (3) No such change or transaction shall be recorded, without the order of the Deputy Commissioner, Revenue Assistant or, as hereinafter provided, of the Tahsildar or any other court as constituted under any law for the time being in force.



petitioners. Respondent No. 1, the DDA, is further directed to undertake the demarcation of the subject land with the assistance of officials from the revenue department within four weeks thereafter. A compliance report must be filed before this Court on or before the next date of hearing.

16. Re-notify 04.12.2024 in the 'Supplementary List'.

DHARMESH SHARMA, J.

SEPTEMBER 26, 2024

Sadiq