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

% *Date of Decision: 21.08.2023*

+ **LPA 476/2018, CM Nos.34005/2018 & 44684/2018**

TULSI RAM

..... Appellant

Through: Mr. Bibhuti Bhushan Mishra, Mr. Kamlesh Kumar Mishra, Mr. Aditya, Mr. Dipak Raj & Mr. Kailash Kumar Jha, Advs.

versus

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..... Respondent

Through: Ms. Shobhana Takiar, Ms. Kritika Gupta & Mr. Kuljeet Singh, Advs. for DDA.
Mr. Rishikesh Kumar, Ms. Sheenu Priya, Mr. Sudhir Kumar Shukla, Mr. Muhammad Zaid & Ms. Roshni Haldhar, Advs. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The appellant has filed the present appeal impugning an order dated 16.07.2018 passed by the learned Single Judge rejecting the appellant's petition (being W.P.(C) 1720/2018) filed under Article 226 of the Constitution of India.
2. The appellant had filed the said petition, essentially, seeking an order restraining the Delhi Development Authority (hereafter 'DDA')



from dispossessing the appellant from land admeasuring 16 bighas 00 biswas in Khasra No. 341 Min Indraprastha Estate, New Delhi (hereafter '**the subject land**'). According to the appellant, the subject land is located adjacent to the river Yamuna and he has been cultivating the subject land since the past four decades.

3. The aforementioned writ petition filed by the appellant was founded on the basis that the subject land was given on lease by the Government of India to one Pandit Kishan Chand, who had in turn sublet the same to Delhi Peasants Co-operative Multipurpose Society Limited (hereafter '**the Society**') for the purposes of cultivation. The Society continued to pay lease rentals to the Delhi Improvement Trust as the management of the lands with the Society were handed over by the Government of India to the Delhi Improvement Trust.

4. The appellant claimed that he was a member of the Society and had regularly paid rent to the Society, commensurate with the subject land (his share of the lands with the Society).

5. The appellant claimed that on 13.12.1956, the Government of India had decided to lease the lands in question, including the subject land, to the Society for a period of ninety years and the necessary directions were issued to the Delhi Improvement Trust by the Government of India.

6. DDA had issued notices for evicting occupants of the lands including the subject land, which was contested by the appellant as well as several other persons claiming to be members of the society.



7. In the aforesaid context, the appellant approached this Court *inter alia* praying that the DDA be restrained from dispossessing the appellant from possession of the subject land. The appellant also claimed that it could not be evicted from the said land by virtue of the Delhi Land Reforms Act, 1954.

8. The appellant also relied on the land records (Khasra Girdawari) for various years.

9. The DDA had contested the aforesaid petition. It is the DDA's case that the said land was transferred by Land & Development Office (L&DO) to the DDA on 03.12.2004 and was located in Zone 'O' of the Yamuna River bed. According to the DDA, the land records as produced by the appellant are fabricated and as per the records, the owner of the subject land is reflected as "*Sarkardaulatmadar*". The DDA also relied on the orders issued by the courts including orders in **W.P.(C) 2112/2002** captioned ***Wazirpur Bartan Nirmata Sangh v. Union of India***, whereby directions have been issued for clearing of the Yamuna River bed of encroachments by conducting demolition drives from time to time. It was also stated on behalf of the DDA that the committee of the National Green Tribunal (NGT) had issued directions for comprehensive development of the Yamuna River bed and the same was being implemented in phases.

10. In the writ petition proceedings, the appellant filed an additional affidavit contradicting its stand in the petition. He now affirmed that he was not a member of the Society. The appellant affirmed that mentioning the Society in the petition was an 'an inadvertent error'. He claimed that he was cultivating the subject land and this was duly reflected in the land



records. He produced copies of land records pertaining to the years 1972-74, where he had been reflected as '*naam Malik va Ahvaal*'. He also produced documents for the years 1985-88, 1991-94 and 1995-97 reflecting him as a cultivator. The appellant has founded his case on the basis of the said documents.

11. The DDA claimed that the copies of documents produced by the appellant were not genuine and the learned Single Judge accepted DDA's contention. The learned Single Judge also considered the photographs of the subject land produced, which indicated the temporary structures made of tin and asbestos. The court reasoned that if the appellant had been occupying the land for more than four decades as claimed, the residential structures would not be of a temporary nature as was evident from the photographs. The court found merit in the contention that the appellant had been removed from time to time and had resurfaced on the land and rejected the appellant's contention that he had any right to occupy the subject land.

12. As is apparent from the above, the appellant's case rests entirely on the basis of the copies of the land records (Khasra Girdawari) produced by him. It is relevant to refer to the counter affidavit filed by DDA in the writ petition in this regard. The DDA stated that the subject land falls under 'O' zone and was at the disposal of the DDA. It was also stated that the appellant had filed forged and fabricated documents. The DDA also filed copies of the land records, which reflect the owner of the subject land as "*Sarkardaulatmadar*". The relevant extract of the affidavit filed by the DDA is set out below:



“7. That the land claimed by appellant falls under ‘O’ zone and is at the disposal of DDA. The appellant has no rights in the said land. The respondent DDA has not at any time given this land to any society as stated by the appellant. The appellant has filed forged and fabricated documents, the original records of the respondent are thus being placed on record to show the correct position of ownership of land. The appellant has filed an incorrect “mauza inderpat jamabandi” of the year 1972-74 whereas as per the records of respondent no “jamabandi” of year 1972-74 exists in the records. As per respondent’s records the jamabandi of the year 1972-73 shows that khasra no 341 (168-17) which is area marked as “dariya” and is under the ownership of “Sarkar daulatmadar” i.e. chief commissioner.??

8. That the appellant has filed records of Khasra Girdawari of the year 1985-86, 1987-88, 1991-92, 1993-94, 1996-97 which are false and fabricated. As per respondent’s records there is no Girdawari for the period 1985-86, 1986-87, 1993-96 in the records and in the records of the year 1991-92 there is no Girdawari with the name of the appellant. The records of the Girdawari of the year 1996-97 filed by the appellant do not match with the original Girdawari available with the respondent. The certified copies of the Girdawari of the year 1991-92 and 1996-97 along with the Jamabandi of the year 1972-73 are being placed on record along with this affidavit as **Annexures R1 and Annexure R2.**”

13. The DDA has also produced satellite images to establish that the subject lands fall in Zone ‘O’, which in terms of the directions issued by the Principal Committee of the NGT, is being restored for the purposes of rejuvenation of the river Yamuna. The DDA states that the trees are being planted on the lands comprising of the said zone to develop the landscape. The DDA also produced photographs showing the current status of the land, which supports the aforesaid assertion.



14. We find no flaw in the impugned order. We are not persuaded to accept that the appellant has any right on the subject land, which is situated on the river bed.

15. It is material to note that the documents as relied upon by the appellant (which are disputed by the DDA) also reflect the owner of the subject land as *Sarkardaulatmadar*. Thus, there is no dispute that the subject land vests with the Government and does not vest with the appellant. Given the nature of the subject land, even if it is accepted that the appellant had intermittently used the subject land for cultivation from time to time, the appellant cannot claim any rights to occupy the subject land.

16. We find no ground to restrain the DDA from carrying out the project of restoration and rejuvenation of the river bed of the Yamuna, which would be an obvious consequence of permitting the appellant to occupy the same.

17. The appeal is unmerited and, accordingly, dismissed. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

AUGUST 21, 2023
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