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

+ **W.P.(C) 3440/2021**

BABY

.....Petitioner

Through: Mr. Devendra Kumar Yati, Mr. Sahib Malhotra, Mr. Hanss Bhalla and Ms. Tamanna Gupta, Advocates.

versus

STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Parvinder Chauhan, Ms. Mahima Anand and Ms. Hema Sukhija, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

16.07.2024

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1. The Petitioner asserts that her property, located at A-147, D.D.A Flat, New Ranjeet Nagar, New Delhi,¹ has been illegally sealed by Respondent No. 2, the Delhi Urban Shelter Improvement Board.² Through this petition under Articles 226 and 227 of the Constitution of India, 1950, she seeks directions for the de-sealing and restoration of possession of the said premises.

2. The facts of the case narrated by the Petitioner are as follows:

2.1. The Petitioner purchased the subject property from one Mr. Om Prakash for a total consideration of Rs. 4,00,000/- through a General Power

¹ "subject property."

² "DUSIB."



of Attorney,³ a Special Power of Attorney,⁴ an Agreement to Sell, a Possession Letter, and a Will, all dated 22nd July, 2011.

2.2. The Petitioner holds a permanent electricity connection in her name with respect to the subject property, which is supported with an electricity bill dated 21st October, 2019, issued in the Petitioner's name. She has been diligently making payments of all electricity and water dues related to the subject property.

2.3. The subject property was sealed by DUSIB, citing non-payment of dues. This action was taken despite the Petitioner's letter dated 16th December, 2020, where she claimed that no dues remained outstanding against the property, and offered to make the payments for any unpaid charges that subsisted.

2.4. Thereafter, she submitted a representation to Respondent No. 2 on 22nd February, 2021, highlighting her circumstances and seeking verification of documents and reconciliation of accounts. Having received no response from Respondent No. 2, she has approached this Court seeking appropriate directions to prevent sealing of the subject property.

3. The Petitioner contends that DUSIB's action of sealing the property without prior notice constitutes a forceful and unlawful eviction. This action is in contravention of Section 41 of the Delhi Urban Shelter Improvement Board Act, 2010, which outlines the procedural requirements and conditions necessary for such actions to be lawfully executed. In accordance with the said provision, DUSIB failed to issue a notice to the Petitioner before the sealing action. Further, Section 40 of the said Act debars entry into the

³ "GPA."

⁴ "SPA."



premises of the occupier without their consent. The precedent set by the Supreme Court in the case of *Martin and Harris Ltd. v. Additional District Judge and Ors.* emphasized the necessity of adhering to lawful procedures before depriving any individual of their property.⁵ Moreover, the abrupt eviction and sealing infringe upon the Petitioner's constitutional right to property. Further, she references to the Maintenance and Welfare of Parents and Senior Citizens Act, 2009, arguing that sealing of her premises without intimation infringes upon her rights to adequate housing and residence, which are particularly significant given her status as a senior citizen. Thus, the Petitioner argues that DUSIB's actions not only disregard established legal requirements, but also violate her fundamental rights, particularly the right to life protected under Article 21 of the Constitution, which encompasses the right to shelter and housing.

4. DUSIB, on the other hand, has brought the following antecedent facts to the Court's attention, which resulted in the sealing of the subject property:

4.1. The original allottee of the property, Mr. Ram Lal, son of Mr. Parmanand, was previously found to be unlawfully occupying public land at Property No. 1791/VIII, Delhi-110006, from which he was subsequently evicted. Consequently, as a rehabilitation measure following his eviction from a site where he had been unlawfully squatting, on 20th March, 1975, the Slum & JJ Wing of the Delhi Development Authority allotted the subject property to Mr. Ram Lal on a license basis. This allotment did not confer any legal property rights, but was a gratuitous act by the State to provide temporary relief. The terms of the allotment entailed in the Allotment Letter dated 20th March, 1975 and the prevailing public policy, explicitly

⁵ AIR 1998 SC 492.



prohibited the original allottee from transferring possession of the subject property.

4.2. Thereafter, on 13th January, 2000, one Mr. Om Prakash applied for leasehold rights over the subject property. In response, the Slum & JJ Wing issued a Demand Notice on 27th March, 1987 for Rs. 14,505/-. Due to non-payment, a subsequent Demand Notice for Rs. 16,311/- was issued on 03rd August, 1998.

4.3. Mr. Om Prakash's continued non-compliance with these financial obligations prompted the Assistant Collector Grade-II of the Slum & JJ Department to issue a demand under Section 68 of the Punjab Land Revenue Act, 1887 on 29th October, 1999. Despite these efforts, no payments were made. Consequently, on 03rd March, 2005, the Collector of the Slum & JJ Wing ordered the sealing of the subject property due to the failure to satisfy the financial demands.

4.4. In the meantime, on 06th August, 2008, Mr. Arjun, son of the original allottee [Mr. Ram Lal] filed a complaint alleging that his father had temporarily allowed his cousin to occupy the subject property until alternative arrangements could be made. According to the complaint, this cousin continued to reside there without any legal title or right to the property. Subsequently, on 19th November, 2011, Mr. Arjun applied for the mutation/transfer of the subject property into his name, asserting his status as one of the legal heirs of the original allottee.

4.5. Despite the sealing order issued on 03rd March, 2005, the matter remained unresolved until the Assistant Collector Grade-II of DUSIB reiterated the direction to seal the premises in his order dated 02nd December, 2013. This direction was finally executed on 30th April, 2014,



when the subject property was sealed, effectively restricting access and asserting control over the unresolved legal status of the property's occupancy.

4.6. In 2012, DUSIB was informed of FIR No. 156/2012 registered under Sections 420, 406, and 120B of the Indian Penal Code, 1860⁶ against fraudulent transfer of the title and possession of the property. This FIR originated from a criminal complaint initiated by one Mr. Suresh Kumar before the Metropolitan Magistrate (West), Tis Hazari Court, Delhi. Significantly, Mr. Om Prakash and the Petitioner have been implicated as a co-accused in the FIR. Pursuant to a notice under Section 91 of the Code of Criminal Procedure, 1973⁷ from SHO of the Police Station, Ranjit Nagar, New Delhi, DUSIB supplied certain information to the police, including attested copy of the allotment letter.

4.7. Records show that Mr. Suresh Kumar, Mr. Om Prakash and the Petitioner are entangled in multiple litigations over the ownership and rights in the subject property, with several criminal cases still awaiting resolution. Through another notice dated 16th December 2020 under Section 91 of the CrPC, DUSIB learnt of FIR No. 266/2020. This FIR, registered under Sections 188, 448, and 454 of the IPC and naming the Petitioner as one of the accused, stemmed from Criminal Complaint No. 7018/2019, titled ***Suresh Kumar v. Baby and Anr.***, filed before the Metropolitan Magistrate (West), Tis Hazari Court, Delhi. In the order of 18th March 2020, the Additional Chief Metropolitan Magistrate (West), Delhi directed the SHO of Ranjit Nagar Police Station to register an FIR under the applicable laws.

⁶ "IPC."

⁷ "CrPC."



This order revealed that the seal previously placed by DUSIB on the subject property had been illegally removed, constituting criminal trespass and a deliberate violation of government orders.

4.8. Amidst the ongoing disputes concerning the subject property, an additional claim emerged when one Mr. Bishan Kumar, who issued a legal notice to DUSIB, asserting ownership over the property as the purported purchaser from Mr. Arjun (son of the allottee, Mr. Ram Lal).

4.9. Given these complexities and the presence of unauthorized transactions, DUSIB decided to re-seal the property on 17th February, 2021.

5. The Court has considered the submissions advanced and examined the documents on record. The facts brought forth by DUSIB highlight the complex nature of this case, where multiple individuals have engaged in transactions concerning the subject property without clear authorization from DUSIB. It is imperative to note that the Petitioner has failed to disclose these significant facts which directly impact the credibility of the petition. This omission suggests an attempt by the Petitioner to secure a favourable order through concealment of material information. This Court is guided by established legal precedents in such matters, notably the decision ***K.D. Sharma v. Steel Authority of India Limited and Ors.***,⁸ where the Supreme Court held that suppression of material facts justifies the dismissal of a writ petition. It was observed that public interest warrants that litigants who dishonestly suppress material facts to secure prerogative writs must be deterred. Consequently, given that the Petitioner has deliberately concealed the facts disclosed by DUSIB in an attempt to mislead the Court and obtain an equitable relief, her petition is liable to be dismissed.



6. The Petitioner has also not substantiated the legitimacy of her right, title, or interest in the subject property of the original seller – Mr. Om Prakash, from whom she claims to have acquired it. It is crucial to note that the subject property has never undergone conversion into lease-hold or free-hold status, rendering any supposed transfer or conveyance of the property legally void. Moreover, DUSIB had initially sealed the subject property on 30th April, 2014 under lawful authority. Subsequent events indicate that the Petitioner breached this seal and unlawfully took possession of the property. Given these circumstances, the Petitioner's actions constitute clear instances of trespassing and illegal occupation. The lack of a show-cause notice prior to the re-sealing of the property does not invalidate the enforcement actions taken by DUSIB, especially considering the Petitioner's unauthorized breach of the seal. Therefore, the Petitioner's claims, premised on procedural grounds concerning the absence of a show-cause notice, cannot be sustained against the backdrop of her overtly illegal actions. These factors collectively justify the re-sealing of the property and negate any claims of procedural impropriety by DUSIB.

7. For the foregoing reasons, the petition is devoid of merit and is accordingly, dismissed.

SANJEEV NARULA, J

JULY 16, 2024/ab

⁸ (2008) 12 SCC 481.