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

+ **W.P.(C) 6210/2021 & CM APPLs. 19676/2021, 3840/2024**

SMT. NEERAJA JAIN & ANR.

..... Petitioners

Through: Mr. John Mathew, Advocate.

versus

UNION OF INDIA, THROUGH, DIRECTOR GENERAL & ORS.

..... Respondents

**Through: Mr. Rishabh Sahu, Sr. Panel Counsel
with Mr. Sameer Sharma, Advocate
for R-1 to 3.**

**Mr. Shilp Vinod and Ms. Shoba
Rama Moorthy, Advocates for R-4.**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

12.02.2024

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1. The Petitioners have approached this Court with the following prayers:

“a) Issue a Writ of Mandamus, or an appropriate writ/order to Respondent No.1 and 2, directing the competent authority to sanction the proposal for subdivision and allotment of subsidiary survey number and for the grant of fresh lease for the sub-divided portion in respect of the property measuring 7827.82 square feet taken out from Survey number 131/400-A, Agra Cantonment, in favour of the petitioners;

b) Issue a Writ of mandamus or an appropriate writ/order to Respondents no.3 and 4 to forthwith, to make necessary entries, by way of mutation in favour of the petitioners, in the General Land Register, in respect of the property measuring 7827.82 square feet



taken out from Survey number 131/400-A, Agra Cantonment;

c) Issue a writ of mandamus or an appropriate writ/order to Respondent no.3 and 4 to consider the building plans submitted by the petitioners for repairs/reconstruction of the building situated on the leased premises;

d) Issue a writ of mandamus or an appropriate writ/order to respondents no.1 to 4 to extend the third term of the lease beyond the prescribed 30 years, by an additional period being equal to the period of delay occasioned by the arbitrary conduct of the respondent authorities for the grant of sanction for renewal of the lease, delay in sub-division of the property with subsidiary survey number, mutation of the property and fresh lease in favour of the petitioners.

e) direct the respondent authorities no.1 to 4 to duly compensate for the loss caused to the petitioners for the having kept the petitioners out of business for want of sanction of sub-division of the property with subsidiary survey number, mutation of the property and fresh lease in favour of the petitioners;

f) direct the respondent no.5, the recorded original lessee, to furnish, co-operate and assist the petitioners and the respondent authorities No.1 to 4 with all the necessary records as and when required to enable the process for the grant of sanction;

g) pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present application."

2. The facts of the case reveal that a land admeasuring 13,623 square feet comprised in GLR Survey No. 131/400-A, situated under the Civil Area under the management and control of the Cantonment Board, Agra, had



been leased out *vide* Lease Deed dated 12.12.1946 to one Tara Chand and Om Prakash. The lease was being renewed from time to time. *Vide* the Office Order dated 25.10.1978, the power to renew the lease had been delegated to Directors, Defence Estates in Schedule-VI and Schedule-VIII under the Cantonment Land Administration Rule 1925 and 1937. The said lease was to come to an end on 30.09.1976 and the lease was further renewed for a period of 30 years from 30.09.1976. The lessee was a firm i.e., M/s. Shree Gopal Motors. The lease was terminated on 30.09.2006. It is pertinent to mention here that the recorded lessee had sought for renewal of lease for a further period of 30 years with effect from 01.10.2006. It is stated that the recorded lessee transferred the leasehold rights of land admeasuring 7827.82 square feet out of total land admeasuring 13,623 Square feet in GLR Survey No.131/400-A to the Petitioners herein *vide* a registered Sale Deed dated 02.02.2007. On 28.02.2007, the transferees from the original lessee addressed a letter to the CEO, Cantonment Board, Agra furnishing a Notice of Transfer and sought for recording the sub-lease of the transferred premises in the name of the Petitioners and for the renewal of the lease of the land. When the request of the Petitioners was not being adhered to, the Petitioners approached this Court by filing a writ petition being W.P.(C) No.5999/2012 seeking a direction to the authorities for issuance of a fresh lease, execution of lease deed and for separate survey number and mutation in favour of the Petitioners to the extent of 7827.52 Square feet out of total land admeasuring 13623 Square feet. This Court *vide* Order dated 20.11.2013 disposed of the said writ petition. Paragraph No.6 of the said Order reads as under:

6. Though the writ petition is being contested by the respondents, the fact remains that no final decision on



the application of the petitioner received by the Cantonment Board on 02.03.2007, has so far been taken. In these circumstances, the writ petition is disposed of with a direction to the respondents to take a final decision one way or the other on the aforesaid application of the petitioner, within eight weeks from today and convey the same to the petitioner within two weeks thereafter. In case the petitioner is aggrieved from the decision, so taken by the respondents, she can avail such remedy, if any, as is open to her in law. It is made clear that while passing this direction, the Court has not examined the merits of the case and this direction is being issued only because no final decision one way or the other has been taken so far on the application, which Cantonment Board, Agra had received from the petitioner on 02.03.2007.

3. It is stated that pursuant to the aforesaid Order passed by this Court, the Director, Defence Estates, Central Command, Lucknow Cantonment passed an Order dated 20.02.2014 rejecting the claim of the Petitioners over the property. The Petitioners, thereafter, gave a representation to the Director (Defence Estates) to re-consider its the decision. It is stated that, thereafter, the Director, Defence Estates, Central Command, Lucknow, *vide* letter dated 06.08.2014, after considering the case of the Petitioner recommended that the case of the Petitioner be reviewed. In the meanwhile, it transpired that the CEO, Cantonment Board, Agra *vide* letter dated 27.12.2016 informed the original lessee that they were forwarding the copy of the renewal lease deed. A copy of the renewed lease deed was sent to the original lessee and new lease deed was registered on 29.12.2016. Since the original lease deed had been renewed, the Petitioners were endeavouring to get the property sub-divided and they also deposited the lease rent in respect of the property for which they were the sub-lessee of the original lessee. The



amount of lease rent was returned on the ground that a sanction of the fresh lease for the sub-divided portion of the property has not been accorded to from the higher authorities. Since the property was not being sub-divided, the Petitioners have approached this Court by filing the instant writ petition:

4. Notice was issued in the writ petition on 08.07.2021. Pleadings are complete.

5. The Petitioner has filed a letter dated 11.10.2023 issued by the Office of the Cantonment Board to Principal Directorate, Defence Estates, Central Command, Lucknow Cantt., regarding grant of fresh lease for the sub-divided portion of the property which has been transferred to the Petitioners herein. The said letter dated 11.10.2023 reads as under:

*“To,
Principal Directorate
Defence Estates,
Central Command,
Lucknow Cantt.*

Subject: Grant of fresh lease for sub-divided portion in Schedule VIII of CLAR 1937 for residual period and allotment of subsidiary survey number in respect of Sy.No.131/400-A. Property No.510/1 Namnair, Agra Cantt.

Sir,

Reference this office letter No. 39/Lease/CBA/17/491 dated 18.03.2017.

2. It is intimated that this office vide letter under reference forwarded a proposal for grant of fresh lease for sub-divided portion and allotment of subsidiary survey number in respect of subject property. However, the decision of competent authority is still awaited.



3. It is once again requested that necessary sanction for grant of fresh lease for sub-divided portion and allotment of subsidiary survey number may kindly be obtained in respect of subject property.

4. Submitted for kind consideration please.

(Daman Singh, I.D.E.S)
Chief Executive Officer
Cantonment Board, Agra”

6. When the matter came up for hearing, this Court made a suggestion to the learned Counsel appearing for the Petitioner that the Petitioner should approach the Lucknow Bench of High Court of Judicature at Allahabad since the entire subject matter is in Agra and that the correspondence on which the Petitioner places reliance is between the Office of the Cantonment Board and Principal Directorate, Defence Estates, Central Command, Lucknow Cantt., both come within the jurisdiction of the Lucknow Bench of the High Court of Judicature at Allahabad.

7. Learned Counsel for the Petitioners submits that the Petitioners are about 72 years of age and they have been fighting for the sub-division of the property for the last 16 years.

8. In the interest of justice, this Court is inclined to direct the Respondent No.3 to consider the letter dated 11.10.2023 issued by the Office of the Cantonment Board to the Respondent No.3/Principal Directorate, Defence Estates, Central Command, Lucknow Cantt. and take a decision on the issue of grant of a fresh lease for the sub-divided portion of the property which has been assigned to the Petitioners herein by the original lessee *vide* registered Sale Deed dated 02.02.2007 within a period of eight weeks from today.



9. The Respondents are also directed to afford an opportunity to the Petitioners for being heard, if required.

10. In case, the decision goes against the Petitioners, it is always open for the Petitioners to approach the Lucknow Bench of High Court of Judicature at Allahabad for redressal of their grievances.

11. It is made clear that this Order has been passed keeping in mind the letter dated 11.10.2023 where the Respondent No.3/Principal Directorate, Defence Estates, Central Command, Lucknow Cantt was to take a decision regarding the grant of fresh lease for the sub-divided portion of the property.

12. It is expected that the Respondent No.3 will take a decision keeping in mind the age of the Petitioners and the fact that the litigation has been pending for over 10 years.

13. With these observations, the writ petition is disposed of, along with pending application(s), if any. It is made clear that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J

FEBRUARY 12, 2024

S. Zakir