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

+ **W.P.(C) 8024/2020 & CM APPL. 32410/2022**

KAMALUDDIN

..... Petitioner

Through: None

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Through: Ms. Prabhsahay Kaur, SC with Mr.
Bir Inder Singh Gurm & Ms. Pragati
Singh, Advs. for DDA.
M: 8171798389
Email: sahayk@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
08.04.2024

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1. None appears for the petitioner when the matter is called out.
2. Perusal of the record shows that the last appearance on behalf of the petitioner was on 16th November, 2022, when learned counsel for the petitioner had sought time to file a rejoinder.
3. Ms. Prabhsahay Kaur, learned Standing Counsel appearing for the respondent-Delhi Development Authority (“DDA”) submits that the counter affidavit on behalf of the DDA was filed in the year 2021. She submits that despite seeking opportunity on two occasions, no rejoinder has been filed on behalf of the petitioner.
4. She further draws the attention of this Court to the counter affidavit filed on behalf of the respondent-DDA, wherein it has been categorically



stated that the demolition in the property in question has been carried out much before the filing of the present petition.

5. She further submits that the address that was given by the petitioner was not traceable and demolition action had been carried out by the DDA on some other Khasra number, than the one mentioned by the petitioner in the present petition.

6. Having heard learned Standing Counsel appearing for the respondent-DDA, this Court notes that in view of the demolition action already taken by the DDA before the filing of the present petition, the present petition has been rendered infructuous.

7. Further, this Court also records the categorical stand of the DDA that the demolition action was carried out by the DDA on 24th September, 2020 over the property bearing Khasra No. 279 min, 302 min and 306 min at Village Okhla.

8. She submits that after removal of the illegal encroachment in the form of Jhuggis, the possession of the said land is in possession of the DDA and the DDA is maintaining the same as a green area.

9. This Court further notes that it is the clear stand of the DDA that the DDA has not carried out any demolition action on the land being Khasra No. 308/7-24 min situated in Village Okhla, New Delhi, as contended in the present petition. In fact, this Court records the submission made by learned counsel for the DDA that no such land, as mentioned by the petitioner, exists.

10. The relevant portions of the counter affidavit filed on behalf of respondent-DDA read as under:

“xxx xxx xxx



2. That it is submitted that the Petitioner has filed the instant petition with ulterior and mala fide motives and has not approached this Hon'ble Court with clean hands. It is submitted that the Answering Respondent has not carried out any demolition action on the subject land, being Khasra No. 308/7-24 Min situated in Village Okhla, New Delhi. As such, there arises no cause of action in the present petition and the petition deserves to be dismissed on this ground alone.

3. That it is further submitted that the Answering Respondent/DDA, with an objective to maintain the natural ecology of the Yamuna floodplains and with a view to remove encroachment had carried out a demolition programme on 24.09.2020 on land bearing Khasra Nos. 279 min, 302 min and 306 min at Village Okhla, which are in the possession of the Answering respondent and illegal encroachment in the form of Jhuggis were demolished. Photographs from the demolition are annexed herewith and marked as **ANNEXURE R-1**. A Copy of Shajra of Village Okhla is annexed herewith and marked as **ANNEXURE R-2**.

4. That it is submitted that the land bearing Khasra No. 279 min (34-08) situated in Village Okhla has been acquired vide Award No. 51/81-82 dated 09.02.1982. The physical possession of the Khasra No. 279 min (31-00) was handed over to the Answering Respondent by LAC/L&B on 02.03.1982. Khasra No. 279 min (31-00) was transferred to Horticulture Division-VII on 22.04.1982 for development of green area. A copy of Award No. 51/81-82 dated 09.02.1982 along with Kabza Karwahi is annexed herewith and marked as **ANNEXURE R-3(Colly)**.

5. That it is submitted that the land bearing Khasra Nos. 302 (09-11), 477/306 (02-17), 478/306 (02-18) and 482/306 (0-14) situated in Village Okhla, New Delhi has been acquired vide Award No. 95/83-84 dated 24.02.1984. The physical possession of the same was handed over to DDA by LAC/L&B on 14.03.1984. These lands were transferred to the Horticulture Division-VII on 05.02.2018 for development of green area. A copy of Award No. 95/83-84 dated 24.02.1984 along with Kabza Karwahi is annexed herewith and marked as **ANNEXURE R-4(Colly)**.

6. That it is respectfully submitted that the captioned land falls within O Zone of the Yamuna flood plains, and some of this land falls within the Bio-diversity Park being developed by DDA. The DDA/Answering Respondent has been entrusted with an affirmative duty by this Hon'ble Court and the NGT in various judgements to protect the River Yamuna, its morphology and its flood plains and no encroachment of any kind ought to be permitted therein. Qua these lands, the Answering Respondent/DDA is the owner and in possession of the land. In any case,



*it is settled law that no injunction can be claimed against a true owner.
The persons occupying these lands were at best, was rank trespassers
who had no right to be on DDA's land.
xxx xxx xxx”*

11. Considering the aforesaid, this Court notes that the land in question is situated on the Yamuna flood plains and is a public land.

12. Accordingly, the present petition is dismissed in default for non-prosecution and also as having been rendered infructuous, in view of the findings recorded in the preceding paragraphs.

13. The petition is accordingly disposed of along with the pending applications.

MINI PUSHKARNA, J

APRIL 8, 2024/kr