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

+ **W.P.(C) 10207/2023**

**MAYAPURI BEARING DEALERS ASSOCIATION REGD.
THROUGH ITS SECRETARY**

..... Petitioner

Through: Ms. Aayushi, Advocate
versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Ms. Mrinalini Sen, Standing Counsel
with Mr. Mayank Bamniyal, Adv.

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Date of Decision: 19th February, 2024

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

1. The present writ petition has been filed by the petitioner association representing the occupants of shops in plot bearing no. B-51, admeasuring 400 Sq. Yards, Rewari Lane, Industrial Area, Phase-II, thereby, seeking directions for quashing the order dated 19th March, 2021 issued by the Land Sales Branch (Industrial), Delhi Development Authority ("DDA").
2. There are 53 shops on the ground floor and 45 shops on the first floor that are existing in the subject property, which were sub-let and sold to various persons who were conducting their trade and business therein.
3. Learned counsel appearing for the petitioner submits that with respect to the land in question a substantive civil suit was filed in the Court of the



learned District Judge, Delhi and the same is registered as *CS No. 545/2023*. Further, it is submitted that by way of the present writ petition, the petitioner has challenged the action of the respondent-DDA in sealing the shops of the petitioner-association, which has affected their legal and fundamental rights.

4. Learned counsel for the petitioner further submits that the members of the petitioner-association have purchased the shops and are bona fide purchasers, who have been carrying out their business from the premises in question.

5. Learned counsel appearing for the petitioner submits that valuable rights of the petitioners are being affected. She submits that the petitioner herein was never made party to the earlier eviction proceedings or the subsequent proceedings thereafter. Therefore, the present petition came to be filed on behalf of the petitioner.

6. Per contra, learned Standing Counsel appearing for the DDA submits that the present petition is an abuse of process of law. It is submitted that the plot in question, which is an industrial plot was allotted to one M/s Hindustan Metal Works. Subsequently, since there was a misuse in the aforesaid plot, the lease of M/s Hindustan Metal Works was cancelled.

7. Pursuant thereto, eviction proceedings under the Public Premise Act, 1971 ("PP Act") were initiated. It is further submitted that the Estate Officer passed the eviction order dated 7th March, 2017, thereby directing M/s Hindustan Metal Works and all unauthorized occupants to vacate the premises.

8. Aggrieved by the same, M/s Hindustan Metal Works had filed an appeal bearing no. *PPA 02/2017*, which was also dismissed vide order dated 2nd February, 2021. Against the aforesaid order dated 2nd February, 2021, the



Sublette of M/s Hindustan Metal Works, namely one Mr. Jatinder Singh Chawla, filed a petition before this Court in *W.P.(C) No. 3632/2021*, which was dismissed vide order dated 12th September, 2022, thereby upholding the eviction from the aforesaid premises.

9. Learned counsel appearing for DDA further submits that the DDA has already taken possession of the aforesaid premises and the unauthorized shops existing on the premises are lying sealed thereto. Thus, it is submitted that the present petition is not maintainable.

10. I have heard learned counsel for the parties and have perused the record.

11. Perusal of the documents on record clearly show that the plot in question, i.e., B-51, admeasuring 400 Sq. Yards, Rewari Lane Industrial Area, Phase-II was allotted to M/s Hindustan Metal Works vide allotment letter dated 7th November, 1969 and thereafter, the possession was handed over to the said lessee on 30th January, 1970. Perpetual Lease Deed dated 4th May, 1972 was executed in favour of M/s Hindustan Metal Works, according to which, the purpose of allotment of the plot was for manufacturing of Aluminum Kitchen wares.

12. Subsequently, the field staff of DDA inspected the premises on 25th October, 2002 and found that the property was being misused by the lessee. It came to the fore that the original lessee, i.e., M/s Hindustan Metal Works, had sub-leased the property to some other person. Further, misuse in the form of construction of 53 shops at ground floor and 45 shops at first floor were found. It was further found that the said shops had been sublet to various persons who were carrying out different kinds of trade/business. Pursuant to the aforesaid, a Show Cause Notice dated 5th December, 2012



was issued by the DDA, to which no reply was received from the lessee. Subsequently, the lease of the aforesaid plot was cancelled vide order dated 25th July, 2003, on account of misuse and violation of the terms and conditions of the Lease Deed.

13. Pursuant to the aforesaid, a letter dated 11th August, 2003 was issued to the lessee with direction for handing over the physical possession of the property in question to the DDA. Instead of handing over the peaceful physical possession to the DDA, the lessee, i.e., M/s Hindustan Metal Works had filed a suit bearing *Suit No. 864/2006*. However, the said suit was dismissed vide judgment dated 12th September, 2013.

14. In the meanwhile, the DDA had also initiated eviction proceedings qua the aforesaid plot of land. Thus, notice was issued under Section 4 of the PP Act, 1971 to the lessee as well as the unauthorized occupants. Subsequently, the learned Estate Officer passed Eviction Order dated 7th March, 2017, wherein directions were issued to the lessee, i.e., M/s Hindustan Metal Works and all unauthorized occupants, who were occupying the said premises or any part thereof, to vacate the said premises.

15. Aggrieved by the aforesaid eviction order dated 7th March, 2017, an appeal bearing no. *PPA No. 02/2017* was filed, which was dismissed on 2nd February, 2021. Against the dismissal of the aforesaid appeal, a writ petition bearing *W.P.(C) No. 3632/2021* was filed before this Court. However, by order dated 12th September, 2022, the said writ petition was also dismissed.

16. This Court also notes that the petitioner has also filed a suit bearing *CS No. 545/2023*. The said fact have been mentioned in the present petition, as follows:



“xxx xxx xxx

22. It may be mentioned that with regard to the plot in question which is the subject matter of the instant writ petition, a substantive and a comprehensive civil suit was filed in the court of the District Judge, Delhi and the same has registered as CS 545/2023. The said civil suit is pending adjudication before the Civil Court. Summon have been issued and the next date in the said Suit is 12.07.2023. In the said Suit the following reliefs have been prayed as under:-

(a) “Pass a Decree of Declaration declaring that the plaintiffs are the permanent occupants of the shops they are occupying since long in the suit Plot No. B-51 ad-measuring 400 Square yards Rewari Lane Industrial Area Rewari Lane Phase-II.

AND

(b) Pass such further or other orders as to this Hon’ble Court may deem fit and proper.

Analogously with the Suit an Interlocutory Application has also been filed under Order 39 Rules 1 and 2 CPC, 1908 for an order of Injunction Restraining the Defendant from forcibly dispossessing the plaintiffs from the suit property pending disposal of the present suit with a prayer for an Advocate interim ex-parte order upon notice of motion to the Defendant.

xxx xxx xxx”

17. Reading of the aforesaid clearly shows that the petitioner has already filed substantive proceedings seeking declaration as regards its rights over the land in question.

18. This Court also notes that the present petition has been filed challenging the letter dated 19th March, 2021 issued by the DDA, Land Sales Branch (Industrial), which reads as under:

“Delhi Development Authority
Land Sales Branch (INDUSTRIAL)
A-115, First Floor, Vikas Sadan, INA, New Delhi-110023

No. F.6A(742)68/LSB(1)/2182

Date: 19/03/2021

To



1. Sh. Jatinder Singh Chawla
S/o Lt. Surinder Singh Chawla
R/o F-13, Rajouri Garden
New Delhi-110027
2. Sh. Amit Rai
S/o Sh. Gurcharan Lal Pasricha
R/o C-17A, Anoop Nagar, Uttam Nagar,
New Delhi-59
3. Sh. Mohan Lal Yadav
S/o Sh. Ram Yadav
R/o 193-A, Block K-I, Mohan Garden,
Uttam Nagar, New Delhi-110059
4. Sh. Gobind Singh
S/o S. Harbhajan Lal
R/o 2/321, Subhash Nagar,
New Delhi-110027
5. Sh. Sudhir Uppal
S/o Sh. Chamman Lal Uppal
R/o 1808A, Gali No. 135,
Shanti Nagar, Tri Nagar, New Delhi-110035

*Subject: Handing over peaceful possession of plot No. B-51, in Rewari
Line Industrial Area, Ph-II, Delhi*
Sir,

*With reference to the orders dated 02.02.2021 of Hon'ble court in Case
No. PPA-02/2017 titled Jatinder Singh Chawla & Others Vs DDA & Estate
Officer. The relevant para of the order is reproduced as under:-*

*In view of the aforesaid discussion, I find that there is no merit in the present.
The same is hereby dismissed and the impugned Eviction order dated 07.03,2017
passed under Section 5 of the PP Act is hereby sustained and the appellants are
directed to vacate their respective portions within 15 days of this order failing
which the respondent/Delhi Development Authority shall be empowered to
physically evict the appellants from their respective portions in the subject
property i.e. Plot No. B-51, Rewari Line, Industrial Area Phase II, Mayapuri,
New Delhi measuring 400 Square Yards using such force as may be necessary. In
view of the fact that the appellants have taken the justice delivery system for a
ride, raising flimsy and absolutely frivolous grounds thereby, clinging to the
possession of the premises unauthorizedly for such a long time, they are
burdened with costs of Rs, 2,50,000/-, which shall be recovered in equal
proportions from each one of the them.*

*With reference to above, I am directed to ask you to hand over the peaceful
possession of the above suit property within 15 days from date of issue of this
letter to Executive Engineer, Western Division No-13/DDA, failing which DDA
shall be constrained to take action as per the abovementioned order of Hon'ble
court. Also as per above court orders you are directed to submit Rs, 2,50,000/-
within 30 days from issue of this letter.*

This is issued with approval of Competent Authority.

*Asstt. Director
LSB(1)*

xxx xxx xxx”



19. Reading of the aforesaid shows that by way of the aforesaid letter, the DDA has duly intimated to the members of the petitioner-association that Eviction Order dated 7th March, 2017 has already been passed by the Estate Officer. Thus, directions were issued to the petitioner to hand over peaceful possession of the subject property.

20. Considering the aforesaid factual matrix, it is manifest that the lease of the lessee qua the subject plot already stands cancelled by order dated 25th July, 2003 passed by the DDA. Pursuant thereto, eviction order has been passed against the original lessee as well as the various unauthorized occupants of the said premises by the learned Estate Officer in proceedings under the PP Act. The eviction order has attained finality, as the same has been upheld right up to this Court, by way of order dated 12th September, 2022 passed in *W.P.(C) 3632/2021*.

21. This Court also notes the fact that the petitioner herein is a third party, who is only an unauthorized occupant of the premises in question. Once the eviction order has already been passed against the original lessee as well the unauthorized occupants after cancellation of the lease, the present petition filed by the unauthorized occupants of the subject premises, cannot be entertained. The members of the petitioner-association derived their interest from the sub-lessee, who in turn derived its interest from the original lessee. When at present, the original lessee itself does not have any right, title or interest over the premises in question, the petitioner-association, being a third party, cannot seek to claim any interest over the premises in question.

22. Even otherwise, the occupation by members of the petitioner-association was in the nature of unauthorized occupation and misuse of the premises in question, in violation of the terms of the lease.



2024 : DHC : 1401



23. In view of the aforesaid, no merit is found in the present petition, the same is accordingly dismissed.

MINI PUSHKARNA, J

FEBRUARY 19, 2024
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