



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment reserved on : 30 August 2024**
Judgment pronounced on : 07 November 2024

+ **CONT.CAS(C) 682/2021 and CM APPL. 31955/2021**

SH. SATYA PAL BHARTIPetitioner
Through: Mr. Manohar Lal, Adv.

versus

SH. PANKAJ ROY GUPTA & ORS.Respondents
Through: Mr. Anupam Srivastava, ASC
for GNCTD with Ms. Sarita
Pandey, Adv. for R1 to R3.

+ **CONT.CAS(C) 1046/2022 and CM APPL. 42998/2022**

RAM SINGH DECEASED THROUGH HIS LRS.....Petitioners
Through: Mr. Manohar Lal, Adv.

versus

PANKAJ ROY GUPTA & ORS.Respondents
Through: Mr. Jawahar Raja, ASC (Civil),
GNCTD with Ms. Anjesh
Dahiya, Adv. for R1, 2 & 3.
Ms. Shobhana Takiar, SC for
DDA with Ms. Latika Malhotra
& Mr. Kuljeet Singh, Advs. For
DDA

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

JUDGEMENT

1. This common judgment shall decide the above captioned petitions which raise common questions of law and facts and can be



conveniently disposed of together. The present petitions have been filed by the petitioners seeking initiation of the contempt proceedings under Sections 11 and 12 of the Contempt of Courts Act, 1971 against the respondents/contemnors for the alleged wilful disobedience of the directions passed by this Court *vide* order dated 11.08.2004 in W.P.(C) No. 13061-66/04 titled as “*Ram Singh & Ors. vs. Gaon Sabha Nasir Pur & Ors.*”

BRIEF FACTS

2. The brief facts leading to filing of the present petitions are that the predecessor-in-interest of each of the petitioners, being landless persons and belonging to the reserved category, were allotted parcels of agricultural land admeasuring one acre each, by the Gaon Sabha Nasirpur out of Khasra Nos. 393/17 and 393/16 respectively, situated in the Revenue Estate of Village Nasirpur, (*hereinafter referred to as “said agricultural land”*) under the Twenty Point Programme by the Government of India on 15.05.1974.

3. It is claimed that since the allotted land was barren and unsuitable for cultivation, the predecessors in interest i.e., Shri Sher Singh in CONT.CAS(C) 682/2021, and Shri Ram Singh in CONT. CAS(C) 1046/2022, being the lawful allottees of the said agricultural land, invested efforts and money to reclaim the same, despite facing challenges such as lack of irrigation and the presence of unauthorized colonies in the vicinity. It is further claimed that since the date of allotment, the predecessors-in-interest, and thereafter, their legal heirs i.e., petitioners herein, have been continuously cultivating the said land allegedly under the status of *asami* up until 25.06.2021.



4. In CONT.CAS(C) 1046/2022, it is alleged by the petitioner that after passing of the lawful resolution of the Gaon Sabha dated 15.12.1974, the Khasra Girdhawari of the said land was also mutated in the name of the father of the petitioner i.e., Shri Ram Singh, from the year 1982-83 to 1991-92.

5. It is further claimed that the predecessors-in-interest of the petitioners herein were allotted the said land for cultivation on the basis of a five-year lease, which after its expiration, was further extended for another two years by the respondent No.1/SDM¹ concerned *vide* order dated 12.11.1986. Thereafter, the predecessors-in-interest made more efforts and invested more money to make the land fully cultivable and eventually reclaimed the same.

6. However, the instant dispute arose between the parties when the respondent No.1/SDM *vide* orders dated 14.12.2005 and 15.12.2005, dismissed the application of the predecessors-in-interest for declaration of *bhoomidari* rights under Section 74(4) of Delhi Land Reforms Act, 1954² ['DLRA']. It is borne from the record that aggrieved by the aforesaid impugned orders, the predecessors-in-interest of the petitioners preferred statutory appeals before the Collector (South-West)/Deputy Commissioner, which was dismissed

¹ Sub Divisional Magistrate

² (4) At the end of five years, the Gaon Sabha shall report to the Revenue Assistant the extent to which reclamation has been made. The Revenue Assistant shall, after necessary enquiry and after hearing the Asami, either order the termination of the lease and his ejection if there has been no reclamation or extend his lease for another period of two years. If, however, the land has been duly reclaimed during the period of five years or the extended period, the Revenue Assistant shall direct the Gaon Sabha to admit the Asami as Bhumidhar under section 73. The Asami on his admission as Bhumidhar shall be liable to pay such land revenue as shall be equal to 50 percent of the rent calculated at the prevailing village rate of rent together with cesses and local rates, but he shall not be liable to pay any compensation.



vide order dated 23.12.2015, and therefore, second appeal bearing Appeal no. 26/2016 was preferred before the Financial Commissioner, in the course of proceedings the aforementioned appeal was listed along with the other similar matters bearing Appeal Nos. 18/2016, 19/2016, 20/2016, 21/2016, 22/2016, 23/2016, 24/2016.

7. As the main plank of the submission in appeal before the Financial Commissioner was that they were not allowed to present evidence before the Collector and requested affording of a fair opportunity to do so, the matter was remanded back by the Financial Commissioner to the respondent no.1/SDM, directing that the predecessors-in-interest of the petitioners and other appellants be allowed to present evidence and that the case be decided afresh on merits.

8. At this juncture, it would be apposite to note that on 13.10.2003, a parcel of land measuring around 95 bighas, falling in *Khasra* No. 393 was transferred by the Block Development Officer to the respondent No.4/DDA³. Aggrieved by the said action, the predecessors-in-interest of the petitioners herein, along with other similarly-placed individuals, challenged such transfers of land in W.P.(C) 13061-66/2004 titled *Ram Singh & Ors. v. Gaon Sabha Nasir Pur & Ors.* before this Court wherein *vide* order dated 11.08.2004 it was held as under:

“...2. If this be the position, till petitioners application under Section 74(4) of the Delhi Land Reforms Act, 1954 is disposed of possession of the petitioners in respect of land comprised in *Khasra*

³ Delhi Development Authority



bearing No. 393/16(4-9), 393/17(4-9), 393/12(4-01), 393/19(4-15), 393/7(4-8) and 393/18(4-15) situated within the Revenue Estate of village Nasir Pur, Delhi cannot be disturbed. The administration order by which the Block Development Officer directs possession to be handed over to DDA is non est and void.

3. Writ petition is accordingly disposed of holding that petitioners possession in respect of the aforesaid land cannot be disturbed till their application under Section 74(4) is disposed of. If decision is in favour of the petitioners possession would not be disturbed. Only if the decision is against the petitioners and subject to their right to challenge the order and on the proceedings attaining finality against the petitioners alone can petitioners possession be disturbed by the respondents.”

9. It is further culled out from the pleadings filed in CONT.CAS(C) 682/2021 that in another writ petition bearing W.P.(C) No. 3941/2013 titled **Satish Kumar v. Delhi Development Authority**, this Court *vide* order dated 21.10.2013 provided as under:

“8. Learned Counsel for the petitioners has referred to an order dated 19.11.2004 passed in writ petition (civil) No.1794-509/2004 wherein, a submission was made on behalf of the DDA that at no point of time and attempt was made to evict the petitioners by force. Relying on this order, the learned counsel for the petitioners urges that the petitioner’s possession was not disputed by the DDA. Be that as it may, the order of status quo passed by the Deputy Commissioner has to be complied with by both the parties.”

10. In the said backdrop, the grievance of the petitioners herein is that on 24.06.2021, in violation of the order dated 11.08.2004 passed by this Court titled *Ram Singh v. Gaon Sabha Nasir Pur (supra)*, a notice was affixed on the said agricultural land by a representative of the respondent No.2/DoE⁴, claiming that the said land belonged to the DoE and demanded the removal of all items belonging to the petitioners by 25.06.2021. It is alleged that thereafter, on 25.06.2021,

⁴ Department of Education



the respondent No.1/SDM as well as respondent No.2/Deputy Director of the Department of Education along with Respondent No.3/SHO⁵ and officials of the respondent no.4/DDA, allegedly arrived at the said agricultural land along with nearly 20 JCBs and around 1,000 policemen, and in by way of blatant misuse of their powers, they forcibly and illegally destroyed the property of the petitioners herein and took possession of the said agricultural land.

11. Accordingly, the petitioners herein have instituted the present contempt petitions bearing Nos. CONT CAS(C) 682/2021 and 1046/2022 on 28.08.2021 and 19.09.2022 respectively, on the ground that the respondents have wilfully disobeyed the directions of this Court contained in the order dated 11.08.2004.

PROCEEDINGS BEFORE THIS COURT

12. Upon acceptance of the notice of the present contempt proceedings, the respondent No. 1/SDM has filed an affidavit dated 22.09.2023 in Cont. Cas(C) 1046/2022, explaining his presence at the site in question on 25.06.2021 by stating that he was present in a strictly official capacity under the orders of the District Magistrate (South West) to oversee the process of “removal of encroachment”, upon receipt of the letter dated 21.06.2021 issued by the DoE to the District Magistrate for providing assistance for the safety and security during the encroachment removal drive planned for 25.06.2021.

13. Interestingly, respondent No.2/DoE has filed affidavits dated 07.09.2022 and 15.10.2022 in the present petitions, challenging the maintainability of the present petitions on the ground of limitation.

⁵ Station House Officer



The respondent No. 2 further contended that the Petitioner had originally filed a writ petition bearing W.P. (C) No. 6062/2021 on 29.06.2021, seeking re-possession of the subject property on the strength of the afore-mentioned order of this Court dated 11.08.2004, however, only after dismissal of his interim stay application vide order dated 05.07.2021, the petitioner has filed the present petition alleging contempt of the order dated 11.08.2004.

14. In so far as the DoE is concerned it is submitted that the said agricultural land was allotted to the DoE *vide* allotment letters dated 28.06.2007 and 19.09.2007 respectively and the physical possession of the said land was handed over to them on 26.07.2007 and 24.10.2007 by respondent No. 4/DDA. It is further stated that the DoE had handed over the said land to PWD⁶ on 26.07.2007 and 29.10.2007 respectively for the construction of a boundary wall and development of the site in question to run a Government Senior Secondary School for girls, which is currently running from the subject property.

15. It is also brought to the fore that the petitioner in CONT.CAS(C) 1046/2022 had filed a writ petition bearing W.P (C) No. 3912/2022 for issuance of a writ of *Mandamus* against the respondents, thereby directing them not to disturb the possession of the petitioners in the land allotted to their father under the Twenty Point Programme of the Government of India in the year 1974, and *vide* order dated 15.07.2022 this Court dismissed the said writ petition while observing as under:

“6. I have perused the contentions made in the writ petition. It is an

⁶ Public Works Department



admitted fact that the application under the provisions of DLRA is pending before the SDM and the petitioners had been dispossessed from the property in question prior to filing of the instant writ petition. If the petitioners have been dispossessed from the property in question illegally and forcefully, they have an alternative remedy under the Statute. There are also no cogent reasons or grounds available in the instant petition to invoke the writ jurisdiction for allowing the prayer as made by the petitioners.”

16. The respondent No.4/DDA also filed an affidavit dated 20.10.2022 in CONT. CAS(C) 682/2021 thereby denying all the allegations of destroying the property of the petitioners and illegally taking over the physical possession of the said agricultural land, besides contending that they have not carried out any demolition program on 25.06.2021 on the said land. Interestingly, the said affidavit is silent on the issue as to whether the said land was allotted to the respondent no.2/DoE by the DDA in 2007.

17. It is pertinent to note that *vide* order dated 23.11.2023, this Court had recorded that the petitioner in CONT. CAS(C) 682/2021 has also preferred another writ petition bearing No. W.P.(C) 6062/2021 for repossession of the said agricultural land, which is still pending adjudication.

18. During arguments, learned counsel for the petitioner urged that on 24.06.2021 and 25.06.2021 when the possession of the said land was illegally and forcibly taken by the respondents, the proceedings before the Financial Commissioner concerning the petitioners’ *Bhumidari* rights under Section 74(4) of the DLRA were still pending, besides the operating order of this Court dated 11.08.2004 explicitly prohibiting any disturbance to the petitioners’ possession until the



conclusion of the said proceedings. It is stated that despite being aware of the said order, the respondents arbitrarily seized the land, thereby acting in clear defiance of the court's orders. Learned counsel relied upon the decision in the case of **DDA v. Hari Chand**⁷, to buttress his argument that the possession of the petitioners could not have been disturbed by the respondents during the pendency of any appeal or legal challenge.

19. Learned counsel also urged that the fact that no document or order has been placed on record by the respondents to substantiate the alleged transfer of the said agricultural land by the DDA to the DoE, suggests that the impugned acquisition of the said land is invalid and unlawful. Resultingly, it is prayed that any further actions based on the impugned transfer, including the land takeover by the DoE, should be quashed and reversed.

20. On the other hand, the learned counsels appearing for the respondents reiterated the contents of the affidavits filed by them. It is submitted on behalf of the respondent No.2/DoE that the DoE reclaimed the physical possession of the said agricultural land on 25.06.2021 from the petitioner. It is also submitted that since taking over the physical possession of the said land in 2007, the PWD has constructed boundary walls on the said premises and respondent no. 2/DoE has since released a sanction of approximately Rs. 45 crores on 03.09.2021 for the construction of the senior secondary school and the construction work for the same has also commenced.

⁷ RSA 58/2020



ANALYSIS & DECISION:

21. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar. I have also perused the relevant record of the case.

22. At the outset, it is an undisputed fact that the direction of this Court dated 11.08.2004 was categorical to the effect that the respondents were restrained from interfering with the possession of the petitioners in respect of land comprising of *khasra* No. 393/16(4-9), 393/17(4-9), 393/12(4-01), 393/19(4-15), 393/7(4-8) and 393/18(4-15) situated in the revenue estate of Village Nasirpur, Delhi until the conclusion of the proceedings under Section 74(4) of the DLRA. It is also a matter of record that the aforesaid proceedings were still pending before the Financial Commissioner on 25.06.2021 when the petitioners were allegedly evicted.

23. All said and done, it is also a matter of record that while the matter was pending before the Financial Commissioner, Delhi, respondents No.2 and 4 i.e. DoE and DDA on 25.06.2021 respectively claiming that the land vests with the DDA, carried out demolition of the structures existing on *khasra* No. 393/17. Aggrieved thereof, the petitioner filed W.P.(C) 6062/2021 in which although, *vide* order dated 05.07.2021 notice was ordered to be issued to the respondents, however, since it was brought to the notice of the court that the possession of the land had already been taken over by the DDA from the petitioner and construction had begun, no interim orders were passed *except* that it was directed that construction at the site would be subject to further orders passed by this Court; and that no special



equities would be created in favour of the respondents merely because they have proceeded to carry out the construction.

24. It is also a matter of record that the petitioner filed LPA⁸ No. 205/16 against the order dated 05.07.2021 and moved a stay application bearing CM APPL. 19204/2021 upon which notice was ordered to be issued for 16.09.2021. Interestingly, the petitioner on the same day preferred to institute the present contempt petition bearing CONT CAS(C) 682/2021. It is also pertinent to mention here that almost espousing the same cause of action, the instant second contempt petition bearing CONT CAS(C) 1046/2022 was instituted on 19.09.2022. At the cost of repetition, the W.P.(C) 3912/2022 was also preferred but the same was disposed of on 15.07.2022 for the same having become infructuous on account of possession of land already taken over by the respondents.

25. In the aforesaid backdrop, what cannot be overlooked is the fact that village Nasirpur was urbanized on issuance of notification⁹ under Section 507¹⁰ of the Delhi Municipal Act, 1957 [“DMC Act”] in the

⁸ Letters Patent Appeal

⁹ F.33/Engg.TP(DD)/11424/94

¹⁰ **507. Special provisions as to rural areas.—**

Notwithstanding anything contained in the foregoing provisions of this Act,—

(a) the Corporation with the previous approval of the *** Government, may, by notification in the Official Gazette, declare that any portion of the rural areas shall cease to be included therein and upon the issue of such notification that portion shall be included in and form part of the urban areas;

(b) the Corporation with the previous approval of the *** Government may, by notification in the Official Gazette,—

(i) exempt the rural areas or any portion thereof from such of the provisions of this Act as it deems fit,

(ii) levy taxes, rates, fees and other charges in the rural areas or any portion thereof at rates lower than those at which such taxes, rates, fees and other charges are levied in the urban areas or exempt such areas or portion from any such tax, rate, fee or other charge;

(c) the Corporation shall pay a Gaon Sabha—



year 1994, which fact was acknowledged by the petitioner in Review Petition bearing No. 132/2023 in the matter decided by the Financial Commissioner. It appears that the said fact that village Nasirpur had become urbanized was suppressed by the petitioner and not brought to the attention of this Court in W.P.(C) 13061-66/2004 that led to passing of the directions dated 11.08.2004.

26. Learned counsel for the respondent/DDA has also pointed out that the land in question falling in village Nasirpur was vested in Central Government *vide* notification dated 19.08.2002 and by the same order the property vested with the DDA under Section 22(1) of the Delhi Development Act, 1957 [**“DDA Act”**].

27. At this juncture, it would be relevant to point out that the facts and circumstances of the present case are squarely covered by the decision of the Supreme Court in the case of **Mohinder Singh (dead) through LRs v. Narain Singh**¹¹, wherein after having detailed analysis of DLRA as well as the DDA Act, it was held that *“once a notification has been published in exercise of powers under Section 507(a) of the DMC Act, the provisions of DLRA ceased to apply”*. It was categorically held that *“in sequel thereto, the proceedings pending under DLRA become non est and loses its legal significance”*. There is no gain saying that the aforesaid legal position arises on

-
- (i) an amount equal to the proceeds of the tax on profession, trades, callings and employments, as and when that tax is levied in the Gaon Sabha area, and
(ii) an amount equal to such portion of the proceeds of the property taxes on lands and buildings in that area as may from time to time be determined by the Corporation, after deducting the cost of collection from such proceeds.

Explanation.—In this section the expressions "Gaon Sabha" and "Gaon Sabha area" have the same meanings as in the Delhi Panchayat Raj Act, 1954 (Delhi Act 3 of 1955).

¹¹ AIR 2023 SC 1427: MANU/SC/0237/2023



account of combined reading of Sections 3(5)¹² (13)¹³ vis-a-vis 150(3)¹⁴ (4)¹⁵ (5)¹⁶ of the DLRA that indicate that if the Gaon Sabha

¹² (5) "Delhi town" means the areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality, Civil Station Notified Area, West Delhi Municipality and the Fort Notified Area;

¹³ (13) "land" except in Sections 23 and 24, means land held or occupied for purpose connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and includes-

- (a) buildings appurtenant thereto,
- (b) village abadis,
- (c) grovelands,
- (d) lands for village pasture or land covered by water and used for growing singharas and other produce or land in the bed of a river and used for casual or occasional cultivation, but does not include-

land occupied by buildings in belts of areas adjacent to Delhi town, which the Chief Commissioner may by a notification in the Official Gazette declare as an acquisition thereto;

¹⁴ (3) If the whole of a Gaon Sabha area ceases to be included in rural areas as defined in the Delhi Municipal Corporation Act, 1957, by virtue of a notification Under Section 507 of that Act, the Gaon Sabha constituted for that area shall thereupon stand dissolved and on such dissolution,-

(a) all properties, movable and immovable, and all interests of whatsoever nature and kind therein including moneys held in Gaon Sabha Area Fund, vested in the Gaon Sabha immediately before such dissolution, shall, with all rights of whatsoever description, used, enjoyed or possessed by Gaon Sabha, vest in the Central Government;

(b) all duties, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Gaon Sabha before such dissolution shall be deemed to have been incurred, entered into or engaged to be done with or for the Central Government;

(c) all rates, taxes, fees, rents and other charges due to the Gaon Sabha immediately before such dissolution shall be deemed to be due to the Central Government;

(d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Gaon Sabha may be continued or instituted by or against the Union of India;

(e) the provisions of this Act shall apply in relation to lands in such Gaon Sabha area, not being lands vested in the Central Government Clause (a), subject to the modification that references therein to Gaon Sabha and Gaon Panchayat shall be construed as references to the Central Government;

(f) notwithstanding anything contained in Clause (b) of Sub-section (2) of Section 1, the provisions of Sections 84, 85, 86A and 87 and any other provision of this Act relating to ejection of persons shall apply in relation to lands vested in the Central Government under Clause (a) subject to the modification that references therein to Gaon Sabha and Gaon Panchayat shall be construed as references to the Central Government.

¹⁵ (4) If only a portion of a Gaon Sabha area ceases to be included in rural areas as aforesaid the jurisdiction of the Gaon Sabha constituted for that area shall cease in respect of that portion and upon such cesser, the provisions of Clause (a) to (f) of Sub-section (3) shall apply to that portion as if the Gaon Sabha had been constituted for that portion alone and dissolved, subject to such incidental and consequential orders as the Chief Commissioner may deem necessary to make.

¹⁶ (5) If the size of a Gaon Sabha Area is reduced as a result of a portion thereof ceasing to be included in rural areas as aforesaid and the Chief Commissioner is of the opinion that the size of the Gaon Sabha area is not sufficiently large to be under the jurisdiction of a separate Gaon Sabha, he may, by notification in the Official Gazette, declare that such Gaon Sabha area shall, from a



area ceases to be included in the rural areas as defined in the DLRA by virtue of notification under Section 507 of the DMC Act, and resultantly the Gaon Sabha would stand dissolved. In other words, if a portion of Gaon Sabha area ceases to be included in rural areas, the jurisdiction of the Gaon Sabha for that area ceases in respect of that portion. On the other hand, it may be noted that Section 2(52) of the DMC Act defines “rural areas” which would exclude such portions which by virtue of notification under Section 507 of the DMC Act ceases to be included in the rural area.

28. Before parting with this contempt petition, it must be stated that insofar as contempt petition bearing CONT CAS(C) 1046/2022 is concerned, the same is apparently barred by limitation since it is evidently filed after not getting any relief from the Court in W.P.(C) 6062/2021, which petition was incidentally filed on 19.09.2022, and on expiry of more than a year of reclaiming of the possession by the respondents and commencing of construction at the site. There is no room for holding that there has been any continuing cause of action in favour of the petitioner since evidently the act of dispossession had taken place and the act was completed by itself.

29. The long and short of the above discussion is that since the interim order dated 11.08.2004 was premised on the pending issues with regard to *bhumidhari* rights of the petitioners before the Financial Commissioner, in view of the fact that the area in questions already

date to be specified in the notification, cease to be a separate Gaon Sabha area and the Gaon Sabha constituted there for shall stand dissolved and may direct that the said area shall be included in one or more adjoining Gaon Sabha areas, and thereupon the provisions of Section 3 of the Delhi Panchayat Raj Act, 1954 (Delhi Act 3 of 1955), shall, so far as may be, apply.



stood regularised and notified under section 507 of the DMC Act, the pendency of appeal before the Financial Commissioner was rendered otiose and *non est* in law. Resultantly, the interim order was rendered infructuous by operation of law and not binding. The bottom line is that the title of the petitioners to the subject property was never determined, and therefore, the determination of such issue cannot be gone into in the present contempt petition.

30. In view of the foregoing discussions, both the contempt petitions are dismissed.

31. The pending applications also stand disposed of.

DHARMESH SHARMA, J.

NOVEMBER 07, 2024

Sadiq