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

% Date of decision: 10th September, 2024

+ W.P.(C) 10414/2024 & CM APPL. 42783/2024, CM APPL. 42784/2024

LAXMAN SINGH PRAJAPATI & ORS.Petitioners

Through: Mr. V S Dubey & Mr. Mandeep Kumar, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Ms. Prabhsahay Kaur, SC with Ms. Deeksha L Kakar, Mr. Bir Inder Singh Gurm, Mr. Rashneet Singh, Ms. Ananya Sahu & Mr. Kamleshwari P, Advs. for DDA.

Mr. Rishikesh Kumar, ASC with Ms. Sheenu Priya, Mr. Atik Gill & Mr. Sudhir Kumar Shukla, Advs. for GNCTD.

Mr. Jai Wadhwa, ASC for MCD.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. The nine petitioners, as detailed in the Memo of Parties, seek to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, for a direction to the respondent No.2/Delhi Development Authority ['DDA'] not to take any coercive action in the nature of dispossession of the petitioners from the peaceful occupation



and enjoyment of the subject land, besides a direction to compensate them for the damage done to the standing crops planted on the subject land, from time to time, by the officials of the respondent No.2/DDA.

2. Ms. Prabhsahay Kaur, learned Standing Counsel for the respondent No.2/DDA is present on advance notice.

3. Shorn off unnecessary details, the petitioners claim themselves to be bona-fide members of the society, viz. Delhi Peasant Cooperative Multi-Purposes Society Ltd. The claim of the petitioners is that they have been in peaceful possession of the subject land measuring approximately 13,344 bighas and 1017 bighas of the land, falling in the area of Village Sarai Kale Khan, New Delhi, which is a cultivable land.

4. The grievance of the petitioners is that though they have been cultivating on the subject land for more than 70 years without any hindrance, since 2015 they have been repeatedly facing inference on the part of the officials of the respondents in carrying out cultivation, so much so that their standing crops have been damaged besides temporary sheds demolished; and now they have been threatened with forcible dispossession from the subject land.

5. Ms. Kaur, learned Standing Counsel for respondent No.2/DDA has tore into the assertions made in the writ petition, pointing out that the present petition is a gross abuse and misuse of the process of law. Learned counsel for respondent No.2/DDA has taken this Court through the decision passed by the Division Bench of this Court dated 31.10.2018 in batch matters tilted as 'Sunil Kumar v. DDA and Others' wherein the members of the same registered society, as also



one Jheel Khuranja Cooperative Milk Producers Society Ltd., had filed as many as 36 appeals¹ and 5 writ petitions bearing Nos. LPA Nos. 479/2019, 481/2013, 482/2013, 483/2013, 484/2013, 485/2013, 488/2013, 489/2013, 490/2013, 491/2013, 492/2013, 555/2013, 558/2013, 559/2013, 560/2013, 561/2013, 132/2016, 200/2015, 75/2017, 668/2016, 4/2017, 669/2016, 2/2017, 3/2017, 5/2017, 7/2017, 8/2017, 10/2017, 11/2017, 12/2017, 65/2017, 68/2017, 70/2017, 71/2017, 72/2017, 73/2017, and W.P.(C) Nos. 5041/2014, 5790/2016, 5805/2016, 5806/2016, 5808/2016, in respect of the subject land, thereby challenging the eviction orders and their dispossession from the subject land/public premises at the hands of the respondent No.2/DDA.

6. The Division Bench of this Court made the following relevant observations *vide* order dated 31.10.2018:-

“52. There is no dispute to the fact that the lease in favour of the Societies stood determined in the year 1967. The claim of the appellant’s and the writ petitioner’s that they were tenants of the Societies, and were paying rent to them was also rejected. The appellants and writ petitioners have also failed to bring to the notice of this Court any evidence to prove their contention that they were tenants under the Societies. The facts show that the lease was created in favour of the Societies for the use of its members only and, therefore, on determination of the lease, the Societies as well as the persons claiming through the Societies became unauthorized occupants of land.

57. Thus, we find no illegality or infirmity in the impugned orders. The appeals and the writ petitions have no merit and are hereby dismissed along with the pending applications with no order as to costs.

58. Interim orders dated 23.12.2013 and 03.01.2017 stand vacated. The appellants and the writ petitioners and any person claiming through them are hereby directed to vacate the land in their

¹ Under Section 9 of the Public Premises Eviction of Unauthorized Occupants Act.



occupation and deliver possession within a period of two weeks from today. If they fail to do so, they can be evicted by the respondents thereafter by resort to coercive methods.”

7. It is also pointed out that a Special Leave Petition bearing No. 5372-5391/2018 was filed against the said order before the Supreme Court, which SLP was dismissed on 20.03.2018, except that the petitioners, being farmers, were granted time till December 2019 to vacate the subject premises.

8. In fact, it is pointed out that further extension was granted till 31.03.2020 in another Misc. Applications No. 2567-2569/2019 by the Supreme Court, and eventually, the Special Leave Petition was dismissed *vide* order dated 18.12.2019, so much so that even the Curative Petition (C) No. 38-52/2020 was dismissed by the Supreme Court on 21.05.2020.

9. Further, as pointed out, the whole history of the present matter concerning the subject land was discussed by a Coordinate Bench of this Court in the case titled **Yamuna Bank Kishan Bacho Morcha v. State of NCT of Delhi**², wherein the following observations were made:-

“23. The instant petition is a mischievous petition. A perusal of the writ petition shows that the petitioners have cleverly not mentioned the place where they are carrying out their activities. Other than making a bald assertion that they are in possession of the area for the last 100 years, there is no document on record to establish the possession. The petitioners have shown certain receipts which are being given to the Delhi Peasants Co-Operative Multipurpose Society Ltd. This shows that the petitioners are only claiming through the Delhi Peasants Co-Operative Multipurpose Society Ltd. and the judgment dated 31.01.2018 of the Division Bench of this Court has already held as to how the petitioners in that batch of

² W.P.(CrI.) 2035/2020 dated 01.02.2022



LPAs have become encroachers. There is no receipt which has been given by the DDA. At best, the members of the petitioner/society can claim that they were in occupation of the land only through the Delhi Peasants Co-Operative Multipurpose Society Ltd. The petitioners, therefore, are bound by the judgment passed by the Division Bench of this Court in LPA 479/2013 and other connected matters which has been affirmed by the Apex Court. The petitioner has, therefore, violated the undertaking given to the Apex Court.

25. The petitioner has not been able to establish any semblance of right on the property. Other than filing few receipts which shows that money has been paid to the Delhi Peasants Co-Operative Multipurpose Society Ltd. in Bela estate, which is a Nazul land, does not confer any right to the petitioner especially when the Delhi Peasants Co-Operative Multipurpose Society Ltd. has already failed in its attempt and the members of the petitioner/Society have been held trespassers by the Division Bench in LPA 479/2013 and other connected matters and the SLP, review and curable petitions arising out of the said order have been dismissed by the Apex Court.

28. Since the record show that the members of the petitioner/society are in unlawful occupation, the relief for compensation on the ground of DDA damaging the crop is not maintainable. This writ petition is nothing but an abuse of the process of law and another attempt by the members of the petitioner Society to cling out on to the land while they have already been held to be unauthorized occupants and encroachers. The members of the petitioner Society have, therefore, violated the undertaking given to the Apex Court. Since the petitioner claims that their members are farmers, this Court is not imposing costs on the petitioner Society.”

10. To cut the long story short, another petition was filed by some members of the same society i.e., Delhi Peasant Cooperative Multipurposes Society Ltd. which came to be dealt with by another Single Judge of this Court in Shri Roshan Lal v. DDA³ and was dismissed.

11. Faced with the aforesaid previous decision of this Court, as also the decisions passed by the Supreme Court, learned counsel for the petitioners has submitted that the petitioners have an independent right

³ W.P.(C) 12/2019 dated 08.03.2022



to assert their claim upon the subject land property.

12. Learned counsel for the respondent No.2/ DDA has placed a chart on the record showing that each of the petitioners, either themselves or through their fore-fathers, has been involved in the previous proceedings and the decisions, which have been referred above.

13. The sum result of the aforesaid discussion is that the petitioners have concealed that they have already exhausted their legal remedies before the Courts and they are reiterating the same assertions with regard to the land in question, which already stand rejected *vide* previous orders of this Court, as above mentioned.

14. Evidently, the petitioners are attempting to encroach upon the subject land which falls in Zone 'O' in the 'Yamuna River Belt', where the respondent No.2/DDA proposes to construct a project called 'Mayur Nature Park' extending from Nizamuddin Bridge to DND Flyway of the Eastern Bank of Yamuna River.

15. In view of the foregoing discussion, the present writ petition is dismissed. However, it is necessary that costs should be imposed upon the petitioners/members, who have chosen to file this misconceived writ petition and have concealed material facts from this Court, thereby wasting the precious judicial time and efforts of this Court. Each of the petitioners is burdened with a token cost of Rs. 5,000/- which shall be paid within a month from today by depositing the same with the Registrar General of this Court, failing which appropriate measures shall be invited against each one of them so as to recover the same.



16. The pending applications also stand disposed of.

DHARMESH SHARMA, J.

SEPTEMBER 10, 2024

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Signature Not Verified

Digitally Signed By: PRANJAN
KUMAR VATS
Signing Date: 12.09.2024
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