



2024:DHC:6445-DB



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

+ LPA 814/2024 & CM APPL. 48114/2024, CM APPL.
48115/2024, CM APPL. 48116/2024

NAGMA SHEERIN & ORS.

.....Appellants

Through: Ms. Anam Siddiqui, Advocate

versus

MUNICIPAL CORPORATION OF DELHI & ORRespondents

Through: Mr. Ajjay Aroraa, SC, MCD and Mr.
Kapil Dutta and Mr. Vansh Luthra,
Advocates

Mr. Sharique Hussain, ADv for R-3
Mr. Anuj Aggarwal, ASC, GNCTD
with Mr. Yash Upadhyay and Mr.
Siddhant Dutt, Advocates for R-2 and
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Date of Decision: 23rd August, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present appeal has been filed challenging the impugned order dated 25th July, 2024 passed by the learned Single Judge in W.P.(C) No. 8641 of 2024 whereby the writ petition was disposed of on account of the Appellants being unable to satisfy the learned Single Judge that the construction in question had been raised with prior sanction and/or due approval of the Respondent No. 1 corporation.

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LPA 814/2024

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2. Learned counsel for the Appellants states that the Appellants are residents of the subject property bearing no. E-635 in Khasra No. 632, Jaitpur Block E, Jaitpur Extn. and had filed the underlying writ petition seeking directions to prevent Respondent No. 1 from demolishing the property and evicting the residents.

3. She states that the learned Single Judge ought to have considered that the Appellants were *bona fide* purchasers of the respective flats/apartments in the subject property, who had acquired their interests lawfully through agreements to sell and powers of attorney and the failure to do so has led to a gross miscarriage of justice by holding the Appellants responsible for unauthorized constructions made by the builder, i.e., Mr. Naushad Alam, the Respondent No. 6, which they were unaware of at the time of purchase.

4. She further states that though there are a number of similarly situated unauthorized properties in the area, only the properties of the appellants have been targeted.

5. She lastly states that the learned Single Judge failed to appreciate that the impugned order directing the demolition of the subject property would render the Appellants homeless, causing them irreparable harm and hardship. She states that they had a legitimate expectation that their homes would not be demolished without due process and adequate opportunity to present their case.

6. Having heard learned counsel, this Court finds that the Appellants have neither placed any sanction plan or completion certificate with regard to the subject property on record and have been unable to showcase any other document to satisfy this Court that the construction was raised with approval of the Municipal Corporation of Delhi.



7. Further, the Supreme Court in *Suraj Lamps and Industries Private Ltd. v. State of Haryana and Anr. (2009) 7 SCC 363* has categorically held that unregistered documents cannot be construed as a valid transfer of property. Therefore, the purported purchase of the subject properties by the appellants *vide* agreements to sell and powers of attorney are invalid and no title in the properties is established.

8. It is also settled position of law, as held by the Supreme Court in *Union of India v. M.K. Sarkar (2010) 2 SCC 59* & in *Basawaraj and Another v. Special Land Acquisition Officer (2013) 14 SCC 81* that illegality and irregularity cannot be perpetuated on the ground that illegal benefits have been extended to others. This Court is of the view that if a similarly situated person has been granted some relief / benefit inadvertently or by mistake or illegally, such an order does not confer any legal right on others to get the same relief as well. Consequently, the argument of the Appellants that the subject property is situated in an area along with other similar properties which have been unauthorizedly constructed and the MCD has cherry-picked the Appellants' properties is untenable.

9. Accordingly, the present appeal, being bereft of any merits, is dismissed.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

AUGUST 23, 2024/ms