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

+ W.P.(C) 11948/2024 & CM APPL. 49735/2024

NITESH GEMINI

.....Petitioner

Through: Mr. Bhawanshu Sharma, Advocate.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Ankit Raj, Sr. Panel Counsel with
Ms. Rashi Mangal, G.P., Mr. Akash
Chandrayan and Mr. Ali Mohammed
Khan, Advocates for UOI.
Ms. Mehak Nakra, ASC (Civil),
GNCTD with Ms. Gunjan Suyal,
Advocate for R-2 & R-5.
Mr. Shashi Pratap Singh and Ms.
Urvashi, Advocates for R-3.
Mr. Sanjay Kumar Pathak, Standing
Counsel with Mr. Sunil Kumar Jha,
Mr. M. S. Akhtar, Mr. Mayank Madhu
and Miss Mussarat B. Hashmi,
Advocates for R-4 & 5.

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+ W.P.(C) 11949/2024 & CM APPL. 49740/2024

SANDEEP RANA

.....Petitioner

Through: Mr. Bhawanshu Sharma, Advocate

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sanjay Kumar Pathak, Standing
Counsel with Mr. Sunil Kumar Jha,
Mr. M. S. Akhtar, Mr. Mayank
Madhu and Miss Mussarat B.
Hashmi, Advocates for R-4 & 5.
Mr. Shashi Pratap Singh and Ms.
Urvashi, Advocates for R-3.



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W.P.(C) 11951/2024 & CM APPL. 49746/2024

ANJU DEVI & ORS.

.....Petitioners

Through: Mr. Bhawanshu Sharma, Advocate

versus

UNION OF INDIA THROUGH THE SECRETARY & ORS.

.....Respondents

Through: Mr. Balendu Shekhar, CGSC with
Mr. Raj Kumar Maurya, G.P. and Ms.
Krishna Chaitanya, Advocate for R-1.
Mr. Sanjay Kumar Pathak, Standing
Counsel with Mr. Sunil Kumar Jha,
Mr. M. S. Akhtar, Mr. Mayank
Madhu and Miss Mussarat B.
Hashmi, Advocates for
respondent/DDA.

Ms. Chetanya Singh, SC for R-6.

Mr. Prashant Manchanda, ASC,
GNCTD with Ms. Nancy Shah and
Ms. Ankita Singh, Advocates for
respondent/GNCTD.

Mr. Shashi Pratap Singh and Ms.
Urvashi, Advocates for R-3.

Mr. Prashant Manchanda, ASC for
GNCTD alongwith Ms. Nancy Shah,
Advocate for R-4.

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W.P.(C) 11716/2024, CM APPL. 48690/2024 & CM APPL.
48691/2024

RAVINDER SINGH

.....Petitioner

Through: Mr. Bhawanshu Sharma, Advocate

versus



UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sanjay Kumar Pathak, Standing Counsel with Mr. Sunil Kumar Jha, Mr. M. S. Akhtar, Mr. Mayank Madhu and Miss Mussarat B. Hashmi, Advocates for R-4 & 5. Mr. Shashi Pratap Singh and Ms. Urvashi, Advocates for R-3.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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03.09.2024

1. Present petitions have been filed challenging the vacation notices and any consequential demolition orders issued by the Municipal Corporation of Delhi ('MCD'), which have been unlawfully carried out against the properties of the petitioners at Khasra no.260, Shahbad Daulatpur, near Rohini Sector-25, Delhi.
2. Learned counsel for the petitioners states that lands in question do not belong either to DDA or MCD. In support of his contention, he relies upon the Division Bench's judgment of this Court in ***Surrender Kumar & Ors. vs. Union of India & Ors., in W.P. (C) 2849/2015 dated 20th September, 2016*** wherein it has been held as under:

"We have heard the learned counsel for the parties. We are satisfied that the properties in this writ petition were before this Court in the earlier round a also before the Supreme Court. Even Section 9 notice had been issued to the petitioners in respect of Khasra no.260 min (1-0) subsequent to the Supreme Court decision dated 21.03.2012 in Prahlad Vihar Resident Association and Others v. Union of India and others being Civil Appeal no.3022-3023/2012. As a result, the case of the petitioners is entirely covered by the decision of this Court in Sunil Goel and Others v. The State and Others: 211 (2014 DLT 382 (DB). Consequently, the declaration dated 26.04.2013 under Section 6 of the



Land Acquisition Act, 1984 is quashed insofar as the petitioners are concerned. As a result, the notification dated 28.04.1995 being notification No. F.11(17)/91/L&B/LA/6518 issued under Section 4 of the said Act, insofar as the petitioners' lands are concerned, would be regarded as having lapsed. The writ petition is allowed as above. There shall be no order as to costs."

3. Learned counsel for the petitioners states that learned counsel for DDA had wrongly stated before this Court on February 19, 2024 that "*that though the land has been acquired by DDA, yet its possession has not been handed over to it. He also prays for an adjournment to obtain complete instructions*".

4. *Per contra*, learned counsel for the DDA draws attention of this Court to status report dated 25th February, 2024 filed by the DDA in W.P. (C) 15624/2022 wherein it has been averred as under:

"It is stated that, the acquisition proceedings in terms of the land under reference has lapsed/quashed as enumerated hereinabove and the said land has not been handed over to the answering Respondent till date. That, it being a matter concerning unauthorized construction, it is the Municipal Corporation of Delhi which has to take action for the unauthorized construction as per building by-laws and the answering Respondent further states that complete assistance would be provided as and when required."

5. From the aforesaid status report, it is apparent that acquisition proceedings qua the lands owned by the petitioners stand lapsed/quashed.

6. However, it is settled law that just because the petitioner is the owner of the property/plot of land, the owner cannot carry out any construction without taking any prior sanction/approval from the MCD.

7. In the present cases, neither any approval plan/sanction nor any completion certificate has been placed on record.



8. At this stage, learned counsel for the petitioners states that the petitioners would like to withdraw the present petitions to approach the Appellate Tribunal, MCD to agitate their grievances.

9. With the aforesaid liberty, the present petitions and applications stand disposed of. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 03, 2024/ssc