2024:DHC:2674

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

% Judgment delivered on: 01.04.2024

\+ W.P.(C) 16260/2023 & CM APPL. 10227/2024

GOOD WISH BUILDWELL PVT. LTD. AND ANR ..... Petitioners

versus

GOVERNMENT OF NCT OF DELHI AND ORS. ..... Respondents

Advocates who appeared in this case:

For the Petitioners	:	Mr. Rajesh Yadav, Senior Advocate with Ms. Ruchira V. Arora and Mr. Dhananjay Mehlawat, Advocates
For the Respondents	:	Mr. Udit Malik, ASC (GNCTD) with Mr. Vishal Chanda, Advocate for R-1 to R-3. Mr. Sanjay Kumar Pathak, Standing Counsel with Mrs. K.K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Mrs. Nidhi Thakur and Mrs. Benajeer B. Hasmi, Advocates for R-4/LAC/ADM

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. This is a writ petition under Article 226 of the Constitution of India, 1950, *inter alia*, seeking the following reliefs :-

> *"(a) issue a writ of certiorari or any other appropriate writ, order or direction in the nature thereof thereby quashing the order dated 20.11.2023, passed in case No.66/2023, titled "Good Wish Buildwell Pvt. Ltd. Vs. SR-VA", by the Collector (Revenue) /Registrar/District Magistrate (South), the Respondent No.2 herein;*
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> *(b) issue a writ of certiorari or any other appropriate writ, order or direction in the nature thereof thereby quashing the order dated 08.08.2023, bearing F. No./Refusal/SRVA/ HK/2023/7921-22, passed by Sub Registrar (V-A), Hauz Khas, Mehrauli, New Delhi-110030, the Respondent No.3 herein;*
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> *(c) issue a writ of mandamus or any other appropriate writ, order or direction in the nature thereof, thereby directing the Respondent No.3 to register the sale deed dated 30.06.2021 presented for registration by the Petitioners on 30.06.2021, vide Slip No.5852, duly executed by the Transferor/ Vendor (Petitioner No.2) and Transferee/ Vendee (Petitioner No.1), without insisting on any permission/NOC under the Delhi Lands (Restrictions on Transfer) Act, 1972, in view of the fact that the subject land bearing Khasra No.655 min. (1-0), situated in Village Satbari, New Delhi, is not under acquisition either under the Land Acquisition Act, 1894 or under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013."*

2. Mr. Rajesh Yadav, learned senior counsel appearing for the petitioner submits that petitioner no.1 is the purchaser and petitioner no.2 is the seller who have filed the present writ petition being aggrieved by the order dated 20.11.2023 passed by the Collector (South)-Respondent No.2, in case No.66/2023, titled "***Good Wish Buildwell Pvt. Ltd. vs. Sub Registrar V-A***", whereby the appeal of the petitioners filed under Section 72 of the Registration Act, 1908, against the order dated 08.08.2023 passed by the Sub Registrar-VA (Hauz Khas)-Respondent No.3, requisitioning the registration of the sale deed

was dismissed.

3. It is the case of the petitioners that the petitioners had presented for registration, a sale deed executed by the petitioner no.2 (Ms. Nonita Lall) in favour of petitioner no.1 with the Sub Registrar (VA)/respondent no.3 *vide* slip No.5852 dated 30.06.2021 in respect of land measuring 01 Bigha, comprised in Khasra No.655 min. (1-0), along with tubewell, situated in Village Satbari, Tehsil Saket, New Delhi-110074. It is also stated that the said registration was refused by the Respondent No.3 under Section 71 of the Registration Act, 1908 on the ground that in the Land Status Report (LSR) dated 21.06.2021 issued by the ADM/LAC (South)/respondent no.4, it is stated that "*As per report of Tehsildar (Saket), L&B is recorded as cultivator in revenue record in respect of above mentioned Khasra Nos. i.e. 655 min. (1- 00).*"

4. Mr. Yadav, learned senior counsel appearing for the petitioners invited attention of this Court to page no.46 which is the Land Status Report dated 21.06.2021, according to which, apart from the objection that in the revenue records, the Land and Building (L&B) Department is recorded as a cultivator/occupier, no other objection has been noted. He submits that para 3 of the said LSR itself indicates that the continuation of the name of L&B as cultivator in the revenue records of the aforesaid khasra number is itself contrary to the actual and legal position. He submits that the short affidavit filed by the respondent no.3/Sub Registrar (V-A) vindicates the arguments addressed by him. The same is extracted hereunder:

> *"3. That petitioner has presented the Sale Deed in respect of land measuring 01 Bigha, comprised in khasra No. 655 Min. etc. situated*

in Village Satbari, Tehsil Saket, New Delhi 110074, vide Slip No. 5852 dated 30.06.2021, before my predecessor Sub-Registrar.

4. That as per the Records available at Sub Registrar Office, the Petitioner alongwith the Sale Deed had also filed the Status Report dated 21/06/2021 issued by ADM (LAC). As per the report of the Tehsildar (Saket) as mentioned in Point No. (2) of the Status Report, L&B (Land & Building Department) is recorded as Cultivator in the Revenue Record in respect of the above mentioned Khasra No. 655 min(1-00).

5. That as per the records available, since the land is shown in the name of L&B as per the Status Report, the same was refused by the then Sub Registrar vide Order bearing File No. Refusal/SR-VA/HK/2023/7919-20 dated 08.08.2023 under Section 71 of the Registration Act, 1908."

5. Learned counsel also refers to the short counter affidavit handed over by Mr. Pathak, learned counsel for LAC, who does not have any serious objection. Relevant portion of the same is extracted hereunder:

"11. That it is submitted that since the land was earlier acquired vide Award No. 14/87-88, subsequently as per the revenue record it was shown that possession was handed over to Land and Building Department. On behalf of the respondent Nos. 1 to 3, it had been stated on 12.03.2024 before this Hon'ble Court that the entries of Land and Building Department as the occupier of the subject land was carried out at the time when the lands were under acquisition proceedings. After hearing the submissions, this Hon'ble Court had observed that it appears that the name of the Land and Building Department as an occupier has been continuing incorrectly in the revenue records even post the quashing of the acquisition proceedings. There appears, prima facie, no reason for such entry to continue.

12. That it is humbly submitted that as per the entry dated 04.12.1990 made in the Naksha Mumtzim maintained in the office of the answering respondent, land acquisition proceedings of all khasra nos. of Sumar No. 488 were quashed vide order dated 28.08.1990 passed in C.W.P. No. 902/87 by Hon'ble High Court of Delhi.

13. That the answering respondent had issued the Status Report 21.06.2021 as per the records and as per the reports submitted by revenue authorities stating, inter alia, that the land bearing above khasra no. had been acquired vide Award No. 14/87-88 but the acquisition proceedings are quashed vide order dated 28.08.1990 by

Hon'ble High Court in CWP NO.902/1987. Thus, the said Status Report cannot be said to be erroneous as the same met the statutory requirement of giving status regarding acquisition of the land in question. It is humbly submitted that correction of the revenue record is to be made by the concerned revenue authorities and the ADM/LAC (S) is concerned with issuing land status report only."

6. In the aforesaid circumstances, learned counsel submits that there should not be any impediment to this Court in directing respondent no.3 to register the sale deeds in question.

7. This Court has heard the submissions made by learned counsel for both the parties, and perused the records.

8. The original Land Status Report as furnished to the petitioner would be relevant for considering the present petition. The same is extracted as under:-

"OFFICE OF THE LAC/ADM (SOUTH)

M.B. Road Saket, New Delhi

F.1(1051)/LA/DC(S)/Status/2021/1794 *Dated 21/6/21*

STATUS REPORT

Sub: Status report for Sale deed regarding SR Application No.10502 dated 25.03.2021 and Diary No.183 dated 06.04.2021 of Village Satbari pertaining to Khasra No.655 min (1-00) in the name of Mrs. Nonita Lal Qureshi through release Deed No.6735 dated 27.12.2013 and relinquish deed no.2103 dated 21.04.2014 – Transferor and M/s Good Wish Buildwell Private Limited through Shri Chandan Sawhney – Transferee thereof.

(1) As per report of the Tehsildar (Saket), there is no violation of section 33, 74 (4) and 81 of DLR Act, 1894 pertaining to Khasra Nos. as mentioned above as the land in question belongs to PLR Act.

(2) As per report of Tehsildar (Saket), L&B is recorded as cultivator in revenue record in respect of above mentioned Khasra Nos.

> (3) *As per report of the Kanungo (LA Branch), the land bearing khasra No. as mentioned above has been acquired vide Award No.14/87-88 but the acquisition proceedings are hereby quashed vide order by Hon'ble High Court dated 28.08.1990 in CWP No.902/1987.*
>
> *This status report is valid for thirty days from the date of issue and as such the same be taken into consideration.*
>
> *ADM/LAC (SOUTH)"*

The notings, particularly in para 1 and 3 of the said status report would be of significance so far as the present relief sought is concerned. The contents of para 1 and 3 therein have been reiterated by the respondent no.3 in its short affidavit and has not been disputed by the respondent no.4-ADM/LAC.

9. The fact that the land comprising in Khasra No.655 min was acquired *vide* Award No.14/87-88 and the fact that the said acquisition proceedings were quashed by this Court *vide* order dated 28.08.1990 in W.P.(C) 902/1987 is not disputed and in fact admitted. Moreover, as per the report of the Tehsildar (Saket), it is also reiterated that there is no violation of sections 33, 74(4) and 81 of Delhi Land Reforms Act, 1954 pertaining to the aforesaid khasra numbers and as such, there could be no impediment in issuance of the land status report.

10. The other relevant document annexed to the short affidavit of respondent no.3 is the letter dated 25.01.2024 which is extracted hereunder:-

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OFFICE OF THE SUB-DIVISIONAL MAGISTRATE (SAKET)
REVENUE DEPARTMENT: GOVERNMENT OF NCT OF DELHI
M.B. ROAD : SAKET : NEW DELHI
Tel. No. – 011-29535190 (O): E-mail Address – sdmsaket@gmail.com

No. SDM (Saket)/2024/ 98 Dated: - 25/01/2024

Sub:- Regarding clarification in the matter of court case no. 67/2023 in the matter of Kemaya Lal Kidwai Vs GNCTD and Ors. filed in Delhi High Court.

With reference to the office letter's bearing no. F.No./MISC/SR-VA/HK/2024/160, 161 & 162 dated 24/01/2024 on the subject cited above. In this connection it submitted that the revenue record are maintained and governed as per the procedure laid down in DLR Act, 1954 and as per the revenue records i.e. "Nakal Khatauni" for the year 1998-1999 recorded owner of Khasra No- 650, 652 & 655 situated in the revenue estate of village Satbari, New Delhi is as under:-

S.No.	Khasra No.	Area
1.	650	4-16
2.	652	4-16
3.	655	4-2

Copy of Revenue Record is attached for kind perusal please.

Furthermore, it is submitted that as per Notification bearing No- F.7(128)/DLB/2019/000580156/14600-15 dated 20th November, 2019 village Satbari has been declared urbanized village and after urbanization the DLR Act is not applicable. Therefore, on account of urbanization same is not updated.

Kindly acknowledge the receipt.

Encls : As above.

SHASHI KUMAR
TEHSILDAR (SAKET)

EXECUTIVE MAGISTRATE
SAKET

To

The Sub-Registrar V-A,
Hauz Khas, Deptt. of Revenue,
Govt. of NCT of Delhi,
SDM office Complex,
Old Tehsil Building Mehrauli Delhi-110030.

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आमदा मौखिक आदेश जनाब Teh/SKT ग्राम सतबड़ी जमाबंदी साल 2007-08 का अवलोकन किया गया। मुताबिक जमाबंदी खसरा न: 650 (4-16), 652 (4-16) व 655 (4-2) कुल रकबा 13-14 की मलकीयत बतौर इन्तकाल नम्बर 4020 निम्न प्रकार से है।

① श्रीमति मैना लाल उर्फ श्रीमति मैना लाल किदवई पत्नी श्री रशिद किदवई R/o मैहरौली ग्राम जौनापुर न. दिल्ली
1/2 भाग

② श्रीमति मोनिता लाल उर्फ श्रीमति मोनिता लाल कुरैशी पत्नी श्री कैसर कुरैशी R/o C-5 A आंचल विला ग्राम सतबड़ी न. दिल्ली
1/2 भाग

Teh/SKT

रिपोर्ट पेश है।
25/1/24

As per the said letter, the recorded owner as per the 'Nakal Khatauni' for the year 1998-99 of Khasra Nos. 650, 652 and 655 situated in the revenue estate of village Satbari, after giving the description of the area by a hand written note, clarifies that the petitioner no.2 and her sister, namely, Nonita Lall and Naina Lall respectively were 50% owners each of the land ad measuring 13 bigha and 14 biswa.

11. As submitted by Mr. Yadav, learned senior counsel, there was a registered Partition Deed executed between the sisters distributing the lands. It is also submitted that the land which is the subject matter of the present writ petition fell to the share of petitioner no.2 (Nonita Lall) and as such, she is entitled to dispose it of in accordance with law. The relevant portion of the registered Partition Deed is extracted hereunder:

NOW THIS PARTITION DEED WITNESSETH AS UNDER:

That the First Party (Mrs. Naina Lal), is and shall at all times hereafter hold, own and possess Agricultural Land measuring 8 Bighas and 18 Biswas, bearing Khasra Nos. 649/1 min (1-11), 649/2 min (2-11), 650 (4-16), with Boundary Wall, Electricity Connection with Built-Up structure standing thereon, situated in the Revenue Estate of Village Satbari, Tehsil Saket, New Delhi, (fully described in Red Colour in the plan annexed herewith), having exclusive and independent entrance through 'C-Road' only, as absolute owner without any claim or concern or interest, which is hereby expressly relinquished by the Second Party to this deed in favour of the First Party.

That the Second Party (Mrs. Nonita Lall), is and shall at all times hereafter hold, own and possess Agricultural Land measuring 8 Bighas and 18 Biswas, bearing Khasra Nos. 652 (4-16) and 655 min (4-02), with Boundary Wall, Tube-Well and Small Shed, situated in the Revenue Estate of Village Satbari, Tehsil Saket, New Delhi, (fully described in Green Colour in the plan annexed herewith), having exclusive and independent entrance through 'B-Road' only, as absolute owner without any claim or concern or interest, which is hereby expressly relinquished by the First Party to this deed in favour of the Second Party. It is agreed that since Tube Well is located in the Second Party land, therefore the First Party shall continue to use the said Tube Well for drawing water to the First Party's land, till the First Party is able to make her separate arrangement of water.

That both the parties hereto assumed and taken over possession of their respective lands/ properties allotted under this Partition Deed.

That each party shall use and enjoy their respective land as absolute owner without any objection or hindrances by the other party in any manner whatsoever.

That each party shall pay the house tax, electricity charges in respect of their respective land allotted by virtue of this deed.

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12. It has not been disputed that the said lands were part of the acquisition proceedings. However, the said acquisition proceedings were set aside by an order of this Court dated 28.08.1990 passed in W.P.(C) 902/1987. The fallout of such quashing of acquisition proceedings ought to have been of reinstating the name of the original owners in the revenue records, which appears to have not been done. The revenue records maintained by the SDM Office were not rectified and continued to show the name of the L&B Department as the cultivator/occupier.

13. So far as the ownership is concerned, the document showing rectification of the name of the present petitioner no.2, her sister and mother was carried out way back on 01.05.1992, as per the jamabandi copy placed on record at page 380, 381 and 382. It was only that the revenue records continued with the name of the Land and Building Department as the cultivator/occupier.

14. In view of the above, it appears that the rectification ought to have been carried out by the Revenue Department which was not done in time. As such, the objection on this count is unsustainable in law. Keeping in view the aforesaid facts which have been placed on record by the petitioners as well as the respondents, it is clear that the name of the Land and Building Department, shown as cultivator/occupier in the revenue records would be contrary to the facts which needs to be rectified and are ordered accordingly.

15. In view of the above, the order dated 20.11.2023 passed by the Collector (Revenue)/Registrar/District Magistrate (South) i.e. respondent no.2 as also the order dated 08.08.2023 passed by the Sub-Registrar (VA), Hauz Khas, Mehrauli, New Delhi i.e. respondent no.3 are quashed and set aside.

16. Consequently, the prayer clause (c) is allowed. Respondent no.3 is directed to register the sale deed dated 30.06.2021 presented for registration *vide* the Receipt No.5852 in accordance with law.

17. In view of the above, the writ petition, alongwith pending application, is disposed of with the aforesaid directions.

18. Short counter affidavit on behalf of respondent no.4 has been

handed over by Mr. Pathak and is taken on record.

19. The date already fixed i.e.02.07.2024 stands cancelled.

TUSHAR RAO GEDELA, J.

APRIL 1, 2024/*ns*