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

+ **W.P.(C) 11828/2009 & CM APPL. 2218/2016**

SH. RAN SINGH AND ANR.Petitioners

Through: **Mr.Saurabh Munjal, Advocate.**

versus

GOVT. OF NCT OF DELHI AND ORS.Respondents

Through: **Ms. Shobhana Takiar, Standing Counsel with Ms. Chand Chopra, Ms. Niharika Ahluwalia, Mr. Kuljeet Singh, Ms. Neha Bhupathi Raju and Ms. Sonakshi Chaturvedi, Advocates for R-4/ DDA.**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

04.10.2024

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1. This writ petition has been preferred on behalf of the Petitioners seeking a writ of mandamus directing Respondent No. 4/Delhi Development Authority ('DDA') to forebear from dispossessing the Petitioners from their cultivatory possession of Khasra Nos. 342 (12-14), 343 (16-18), 344 (12-11), 345 (6-17), 346 (13-05), 349/3 (11-0) situated in Village Dheer Pur, Delhi as also directing Respondents No. 2 to 3/Revenue Officials not to change the entries in the Khatoni and Khasra Girdawri showing the names and possession of the Petitioners on the direction of DDA. Interim order was passed in favour of the Petitioners on 22.09.2009 directing the parties to maintain status quo with regard to the land in question.

2. It is the case of the Petitioners that they owned and co-possessed agricultural land in Village Dheer Pur from pre-1992 with their uncles,



brothers and cousins in a joint Khewat, which was acquired by the State and several awards were passed and the award that concerns the present Petitioners is Award No. 69/82-83 in respect of Petitioners' land bearing Khasra Nos. 342 (12-14), 343 (16-18), 344 (12-11), 345 (6-17), 346 (13-05), 349/3 (11-0) situated in Village Dheer Pur. Petitioners filed Civil Writ Petition bearing No. 356/1982 in 1982 challenging the acquisition proceedings in which interim protection was granted. The writ petition was however dismissed with other connected writ petitions on 14.12.1995. In 2001, DDA attempted to take possession of Petitioners' land under the belief that it belonged to DDA but on a representation made by Petitioner No. 1, possession was not taken over. It is averred that Petitioners have remained in cultivatory possession from 2001 to 31.08.2007 but Respondents No. 2 and 3 have not made entries of their crops in the revenue records despite repeated representations.

3. It is stated that on 12.12.2007, GNCTD took a policy decision *inter alia* that all lands in respect of which awards have been given but land owners have not taken compensation and are retaining physical possession, will be deemed to be private lands. On 29.09.2008, Tehsildar, Model Town, Delhi received a report from Halka Patwari wherein it was stated that possession of Petitioners' land had not been taken and they were in cultivatory possession which be recorded if the Petitioners are still cultivating. It is also urged that Khatoni for the year 1998 as amended, received by Petitioner No. 1 on 12.01.2009 records the orders of the Tehsildar and corrections have been made. Similarly, Khasra Girdwari for 2007-08 and 2008-09 shows possessory rights and crops sown by the Petitioners.



4. Learned counsel for the Petitioners submits that Petitioners continue to be in cultivatory possession of the subject land and as per the Land Acquisition Act, 1894 ('LAC Act'), no transfer of title to the Government passes until possession of land is taken by the Government. It is only when possession is taken as envisaged under Section 16 of the said Act that the land absolutely vests in the Government free from all encumbrances. Moreover, Petitioners have not been paid the compensation till date pursuant to the award and in light of these facts, DDA has no right, title or interest in the land of the Petitioners, as land has not legally vested in the DDA under Section 22 of Delhi Development Act, 1957. Further, in view of the policy decision taken by GNCTD on 12.12.2007, in view of the fact that Petitioners retain physical possession and have not taken compensation, the land will be deemed to be their private land.

5. *Per contra*, Ms. Shobhana Takiar, learned Standing Counsel representing the DDA submits that by Petitioners' own showing in the writ petition, it is an admitted fact that land of the Petitioners was acquired and Award No. 69/82-83 was passed which were challenged by the Petitioners in CWP No. 356/1982, which was dismissed. This judgment was never challenged by the Petitioners and therefore, the award has attained finality. Possession of the land in question was taken over by the DDA in 1997 and since then DDA is in uninterrupted possession. In support, reliance is placed on the handing over/taking over report annexed to the affidavit.

6. It is next argued that a similar dispute pertaining to same piece of land in respect of Khasra Nos. 342, 343, 344, 345, 349/03 of Village Dheer Pur was raised in W.P. (C) No. 878/2012 titled '**Pratap Singh and Others v. Delhi Development Authority and Others**' and the writ petition was



disposed of on 13.02.2012 observing that once possession on the land in question has been taken over by DDA on 06.05.1997, the same cannot be released to the Petitioners. This decision has been concealed from this Court. Insofar as the compensation is concerned, attention of the Court is drawn to the counter affidavit filed on behalf of the Revenue Officials wherein a categorical stand is taken that possession was taken over on 06.05.1997 and handed over to DDA, the Requisitioning Department after which land vests with the DDA and compensation was paid to legal heirs of 1/4th sharer Sh. Kishan Lal but the Petitioners did not come forward to accept the same in respect of their shares and the amount is lying with the Revenue Department for which only the Petitioners are to be blamed.

7. Heard learned counsels for the parties and examined their submissions.

8. By this petition, Petitioners seek a restraint against the DDA from dispossessing them from their cultivatory possession of the land in question, described in the earlier part of the order. The bone of contention between the parties is with regard to cultivatory possession of the Petitioners. While Petitioners assert that they continue in cultivatory possession of the land in question, both the Revenue Authorities and the DDA have taken a categorical stand that possession of the land was taken over on 06.05.1997 and in proof thereof handing over/taking over report has been filed. This position is not controverted by the Petitioners in the rejoinder. Once the possession was taken over of the land in question, the same vests in the DDA by virtue of Section 16 of the LAC Act. It is also crucial to note that the acquisition Award No. 69/82-83 was challenged by the Petitioners before this Court in CWP No. 356/1982 which was dismissed and the



interim order was vacated. This judgment was never assailed by the Petitioners and the award therefore attained finality. Once the possession has been taken over, it is rightly argued by the Respondents, Petitioners have no right, title or interest and cannot be restored back to them. This position is fortified by the judgment of the Division Bench of this Court in ***Pratap Singh (supra)***, pertaining to the land in the same village and Khasra Numbers, as aforementioned.

9. In view of the aforesaid, this writ petition is dismissed leaving it open to the Petitioners to claim their compensation which is lying deposited with the Revenue Authorities for which they are themselves to be blamed. Interim order dated 22.09.2009 is hereby vacated.

10. Pending application stands disposed of.

JYOTI SINGH, J

OCTOBER 04, 2024/shivam