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

+ W.P.(C) 676/2015

VINOD SHARMA

.....Petitioner

Through: Mr. Kirtiman Singh, Sr. Adv. with
Mr. Ravi Dutt Sharma, Mr. Rajat
Sharma, Mr. Chetan Sharma, Mr.
Rajeev Khatana, Ms. Ruchika
Sharma, Ms. Rupali Kapoor and Mr.
Maulik Khurana, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.....Respondents

Through: Ms. Manika Tripathy, SC with Mr.
Gautam Yadav, Advs. for DDA.
Mr. Rajesh Kumar Agnihotri, Advs.
for R-3 to R-5.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **23.05.2025**

1. The present petition has been filed seeking direction to the respondent nos.1 and 2/DDA to cancel impugned mutation order dated 21.11.2005 whereby the plot in question i.e. Plot No. 19, Pocket C-3, Sector-28, Rohini has been mutated in the name of Sh. Jai Bhagwan (hereinafter referred to as 'plot').
2. Mr. Kirtiman Singh, learned senior counsel appearing on behalf of petitioner submits Sh. Jai Bhagwan has passed away and his wife Smt. Hemlata has been impleaded as respondent no.4 in the present petition.



3. He submits that the plot in question was originally allotted to Om Prakash, who was unmarried and passed away without leaving any Class I legal heirs. Om Prakash during his lifetime had entered into an Agreement to Sell in respect of the plot with the present petitioner, and had executed Agreement to Sell, GPA, Registered Will dated 29.10.1996 and Arbitration Agreement dated 29.10.1996.

4. He contends that the petitioner had also obtained a probate from the Court of competent jurisdiction in respect of the Will dated 29.10.1996 executed by late Om Prakash.

5. He further submits that perusal of impugned mutation shows that late Jai Bhagwan had furnished forged documents to the DDA for getting the plot in question mutated in his name. Elaborating on his submission he submits, in the mutation letter itself it has been recorded Jai Bhagwan, brother of late Sh. Om Prakash, and son of late Sh. Hem Chand. He submits that Om Prakash is undoubtedly son of Hem Chand, but he was not real brother of Jai Bhagwan. Jai Bhagwan was in fact son of Johri, and this fact is borne out from a copy of the ration card which has been annexed to the present petition as Annexure P-12.

6. He further submits that the respondent nos. 3 and 5 (Department of Food and Supplies) have filed their counter affidavit stating that the old ration card No. 184605 which has been annexed as annexure P-12 is not fake. Further alongwith the counter affidavit, new ration card of the family of Jai Bhagwan has also been placed on record by the department, which clearly indicates that name of the father of Jai Bhagwan is Johri Singh.

7. Mr. Singh, therefore, submits that Jai Bhagwan got the mutation letter issued in his name by impersonating himself as son of Hem Chand whereas



the fact is that he is the son of late Johri Singh.

8. *Per contra*, Ms. Manika Tripathi, learned Standing Counsel appearing on behalf of DDA has invited attention of the Court to the counter affidavit filed by the DDA. More particularly para 2, 3, 4 and 5 which reads as under:

“2. That the Petitioner, Shri Vinod Kumar vide letter dated 24.09.2000 alleged that Shri Om Prakash has entered into an Agreement to Sell with him and is now trying to sell the said plot to some other intending buyer, therefore, he requested that the lease deed and physical possession of the plot be withheld and not be given to the allottee. He however failed to submit the Agreement to Sell and other documents to substantiate his claim.

*3. That consequent upon the death of allottee on 22.08.2003, his brother namely Shri Jai Bhagwan applied for seeking transfer/mutation in respect of said plot in his name vide letter dated 06.11.2003. That numerous letters dated 11.12.2003, 06.01.2004, 25.10.2004 & 08.12.2004, were sent to the Petitioner, Shri Vinod Kumar to attend the office, but he did not appear. Whereas Shri Jai Bhagwan appeared during the Public Hearing on 18.12.2003 and showed original recommendation letter, and the demand letter. A copy of the reminders sent are enclosed and marked as **Annexure R1 (Colly)**.*

4. That since the Petitioner, Shri Vinod Sharma neither appeared before the office even after repeated reminders nor submitted copy of the agreement, the matter was placed before the Hon'ble L.G. and approval was sought on 09.11.2005 to allow mutation in favour of Shri Jai Bhagwan. That a letter conveying mutation in respect of aforesaid plot was issued on 21.11.2005.

5. That it is pertinent to mention here that before allowing mutation, under the instruction of the then Principal Commissioner (LD), in order to clarify the relationship proof between deceased Shri Om Prakash and Shri Jai Bhagwan, a site inspection was got conducted and report dated



08.09.2005 of DD (Survey) mentioned that he visited the premises and found Shri Jai Bhagwan S/o late Shri Hem Chander in the said property. Photocopies of ration card and electricity bill were given to him by Shri Jai Bhagwan. Besides, Shri Jai Bhagwan had submitted a letter from Shri Amrish Singh Gautam, MLA of the area concerned certifying that Shri Om Prakash and Shri Jai Bhagwan sons of Shri Hem Chander are real brothers.”

9. She submits that opportunity was given to the petitioner to appear before the DDA office but he did not appear. However, Jai Bhagwan appeared and furnished documents on the basis of which impugned mutation order was passed.

10. Be that as it may, on the basis of copy of the ration card (annexure P-12) placed on record by petitioner, which has been found by the department to be genuine, as well as the new ration card filed by the respondent nos. 3 and 5 alongwith their counter affidavit, it appears that father's name of Jai Bhagwan, which has been mentioned in the impugned mutation, does not tally with the official record maintained by the Department of Food and Supplies.

11. In this factual backdrop, it is deemed appropriate that the DDA should conduct an inquiry into the matter, take an appropriate decision, and pass consequential orders within a period of 08 weeks. Needless to say, that if the DDA comes to conclusion that mutation has been obtained by Jai Bhagwan by submitting false documents, or by misrepresentation/mis-statement of facts, it may pass necessary orders bearing in mind 2nd paragraph of the mutation letter dated 21.11.2005, which reads as under:

“Please note, if at any inter stage, it is found that mutation has been sought by submitting false documents, misrepresentation/mis-statement of facts then it will be deemed



to be a case of concealment of facts and the mutation allowed shall automatically be cancelled/withdrawn and the property shall vest with the lessor.”

12. While conducting inquiry, DDA shall afford personal hearing to both, the petitioner, as well as, the respondent no.4.
13. The petition stands disposed of in the above terms.

VIKAS MAHAJAN, J

MAY 23, 2025
N.S. ASWAL