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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2793/2025

MUNI LAL & ORS.

.....Petitioners

Through: Mr. Amit Verma, Mr. A.K. Sharma,
Advts.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Varun Vats (SPC) for R1&R3,
Mr. Sumit K. Batra, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

19.03.2025

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1. The petitioner in the present petition seeks the following prayers:

“i. Issue a writ of certiorari or any other appropriate writ or direction thereby declaring the demolition of the petitioners’ houses where they have been residing since last almost 73 years as illegal, arbitrary, perverse and void and/ or

ii. Direct the respondents to rehabilitate the petitioners by providing them with alternative accommodation, in the form of flats or plots, with all basic amenities, such as water, electricity, and sanitation.

iii. Direct the respondents to pay compensation to the petitioners for the loss of their homes and belongings

iv. Direct the respondents to provide the petitioners with a monthly rent of Rs 20,000/- to each petitioner, until they are provided with alternative accommodation.

v. Declare the demolition of the petitioners' houses as illegal and

vi. Kindly direct the respondents that no coercive steps/actions shall be taken against the petitioners herein in the interest of injustice.

vii. Pass any order/further orders that this Hon'ble Court may deem fit and proper may be passed in favour of the Petitioners and against the Respondent.”



2. Learned counsel on behalf of the petitioners submits that the forefathers of petitioners were allotted houses/hutments at the Khyber Pass, Civil Lines in the year 1951 and since then families of petitioners have been residing at the Khyber Pass, Civil Lines (for more than seven decades) as lawful occupants of houses/hutments therein.

3. It is submitted that *vide* a communication/letter dated 01.03.2024 respondent no.1/Land and Development office, Ministry of Housing and Urban Affairs, Government of India passed a generic order directing all unauthorized occupants of Khyber-pass Civil Lines, Delhi to remove illegal construction on the said land with immediate effect. It was further stated therein that in case the aforesaid direction is not complied with, the respondent no.1 04.03.2024 at 5.00 am will demolish the illegal construction/s. The said communication reads as under:

*“Government of India
Ministry of Housing and Urban Affairs
Land and Development Office
Nirman Bhawan, New Delhi*

No.L - III/8/3/72/-8

Date: 01 March 2024

To,

*All Unauthorized Occupants / Squatters
Khyber Pass, Civil Lines,
Delhi*

Subject: Eviction / Demolition drive at Khyber Pass, Civil Lines

The 32 Acres of land at Khyber Pass, Civil Lines which was owned by the then Notified Area Committee (NAC) is now under the ownership of this office. This land has been unauthorisedly occupied by squatters and there exists heavy illegal construction on the same.

You are hereby directed to vacate all unauthorized occupation and remove illegal constructions from the land immediately. Otherwise, the same will be evicted and demolished by this office along with other agencies at 5:00 AM on 4th March, 2024, on your expenses. This office will not be responsible for any loss of property thereof.



This notice is issued with the approval of the competent authority.”

4. It is averred in the petition that without giving the petitioners sufficient time to vacate, on 04.08.2024, the respondents demolished the houses allotted to the petitioners. It is stated that the said act of respondents not only left petitioners without any shelter or means of livelihood but also led to destruction of a substantial amount of their life savings.

5. The petitioners have contended that the area in and around Khyber-pass admeasures more than 32 acres and the order dated 01.03.2024 remains silent on particulars such as details of house number, name of occupants and details of house to be vacated etc. It is further contended that as per the policy of respondents, no hutments or areas having habitat and sizeable population which have come up before 01.01.2006, can be demolished without providing the residents therein alternate housing.

6. Learned counsel on behalf of the respondents submits that the challenge in the present petition has been squarely dealt with in a judgment dated 09.07.2024 passed by a coordinate Bench of this Court in ***Sanjay Kumar and Ors. vs Union of India and Ors.***, 2024: DHC:5096. It is stated that in view of the said judgment, the present petition deserves to be dismissed.

7. Having heard the submissions of the parties, I find merit in the contention of the respondents that the present challenge is foreclosed on account of judgment rendered in the case of ***Sanjay Kumar and Ors.*** (supra).

8. A bare perusal of judgment passed by this Court in ***Sanjay Kumar and Ors.*** (supra) brings out that the petitioners in the present petition are re-agitating the very same grounds which have already been considered therein.



The petitioners in the aforesaid judgment, were also the residents of the Khyber-Pass, Civilines, Delhi who had sought to assail the communication dated 01.03.2024 passed by the Land and Development Department, Ministry of Housing and Urban Affairs, Government of India, whereby the illegal occupants of Khyber-pass were directed to remove illegal constructions within a stipulated period of time. The contention of the petitioner therein that the aforesaid land was allotted to the forefathers of the petitioners in 1951 and that the families had been lawfully residing in the said hutments, was rejected. The petitioners' assertions/claims regarding rehabilitation and relocation as per the policy of Government of India was also rejected. The relevant portion of the said judgment reads as under:

“1. The present Writ Petition has been filed with the following prayers:

“a) Issue a writ of certiorari or any other appropriate writ or direction thereby declaring the impugned notice dated 01.03.2024 as Illegal, arbitrary, perverse and void and / or

b) Issue appropriate writ in the nature of Mandamus or any Other writ or directions thereby directing the Respondent No.1 & 4 not to evict the Petitioners along with 200 families staying in the Khyber Pass Hostel hutments since last almost 73 years and further to direct the Respondent no.1, 2, 3 & 4 not to demolish the houses of the Petitioners which were allotted to them by the Respondent no.2 on rent from time to time.

c) Issue appropriate orders and directions to Respondents for the Rehabilitation and Relocation of the families as per the Policy of the Respondent no. 4 i.e. Government of NCT of Delhi.

d) Any order/further order that this Hon'ble Court may deem fit and proper may be passed in favour of the Petitioners and against the Respondents.”

2. It is the case of the Petitioners that their parents and grand-parents were lawful occupants of Kyber Pass Hostel, Civil Lines, Delhi which was allotted to them. At this juncture, it is pertinent to mention that Kyber Pass Hostel was in the occupation of Ministry of Defence for



providing residential accommodation to the Officers of the Armed Forces of the country. It is stated that the Petitioners are residing in these hostels for generations now and that vide Notice dated 01.03.2024 they have been directed to vacate the hutments and remove illegal constructions from their lands before 04.03.2024. The Petitioners have, thereafter, filed the present Writ Petition with the abovementioned prayers.

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8. Heard learned Counsel appearing for the Parties and perused the material on record.

9. At the outset, it is to be stated that the Petitioners have not shown any document as to who inducted them. In absence of any document the Petitioners ought not to have approached this Court by filing a Petition under Article 226 of the Constitution of India to say that they were inducted by a person competent to induct them and put them in possession. Since this issue requires leading of evidence, the Petitioners need to file Suit and lead evidence to show that they were inducted lawfully by persons who were competent to induct them. As far as for Petitioners No.5 & 7 are concerned, there is nothing to show that they have paid license fee till 2024.

10. Section 2(g) of the PP Act, which defines unauthorised occupation, reads as under:

“(g) “unauthorised occupation”, in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.”

11. Admittedly, it is not the Petitioners who were inducted in the premises. If at all, it was their fathers and grand-fathers who were inducted in the land in question. There is nothing on record to show that the Petitioners have paid any rent. The Petitioners themselves in paragraph No.3 have stated as under:

“3. It is submitted that the Petitioners are the lawful occupants of the Khyber Pass Hostel hutments and the hutments have been allotted to the grand parents / parents of the Petitioner and they have regularly paying the rent since 1951. Lastly the rent was paid in the year 2001 and thereafter no one came forward to collect any



rent form the Petitioners. Since, then the Petitioners are lawfully occupying the hutments and are residing with their family members uninterruptedly without any hindrance and are directly paying water and electricity charges to the authorities.”

12. A perusal of the abovementioned paragraph shows that no rent has been paid by the Petitioners after 2001 and, therefore, after 2001 the Petitioners cannot be called as legal occupants of the land in question and are rank trespassers. A full Bench of this Court in Chandu Lal (supra) has observed as under:

“34. Shri Saigal next contended that on revocation of the license, the petitioners' possession of the Kiosks was that of a trespasser and having accepted license fee subsequent to the revocation of the license, the Corporation acquiesced in the possession of the petitioners as trespassers, in the circumstances the Corporation has no right to disposses the petitioners by force. This submission is equally devoid of force. In accepting license fee subsequent to the revocation of the license, all that can be said is that the license was extended up to the period the license fee was accepted but it cannot be said that the Corporation in any manner acquiesced in the alleged trespass or that the petitioners came to acquire “settled possession”. The basic fallacy in this argument is the assumption that on acquiring liberty to occupy the Kiosk possession of it was passed to the petitioners. The petitioners being licensees legal possession all along remained with the Corporation. That being so, as held by the Supreme Court, in Munshi Ram v. Delhi Administration, A.I.R. 1968 S.C. 702 (15), the Corporation had a right to re-enter the premises and reinstate itself provided it does not use more force than necessary. Such an entry would be received only as a resistance to an intrusion upon possession which had never been lost. Further, the law does not require a person whose property is forcibly tried to be occupied by trespassers to run away and seek the protection of the authorities, there being nothing more degrading to the human spirit than to ran away in the face of peril. 37. Temporary injunction sought by the petitioners could be granted if their case was covered by the three well-established principles, namely, (1) on making out a prima facie case, (2) on showing balance of convenience in their favour, in that the refusal of the injunction would cause greater inconvenience to them and (3) whether on refusal of the injunction they would suffer irreparable loss. Granting an injunction is a matter of discretion and in its exercise the Court has to satisfy itself whether the petitioners have a triable case. Before invoking the jurisdiction of the Court to seek temporary injunction the



petitioners were bound to show that they have a legal right and that there was an invasion of that right. They have failed to show a legal right. Facts and circumstances, on the contrary, prima facie show that the petitioners on the revocation of the license are trespassers, there exists no justification or allowing them to continue perpetuating their unlawful act.”

13. A Coordinate Bench of this Court in *Brahampal v. Union of India*, 2005 SCC OnLine Del 329, has observed as under:

“18. This Court had occasion to examine the issue raised by certain persons aggrieved by action of the respondents in denying appropriate notice and proceedings under the Public Premises (Eviction of Unauthorised Occupants), Act. The judgment of the learned Single Judge was 2003 (69) DRJ 311, Jafar Siddique v. Delhi Development Authority. The matter was taken in appeal and vide a judgment dated 17th September, 2003 passed in LPA No. 447/2003 entitled Sh. Vakil Ahmed v. Delhi Development Authority, the Division Bench held as under: “21. Learned Single Judge on admitted position, considered the case and found that as these persons were trespassers and the order that can be passed by the authority would be removing the unauthorised occupants i.e., encroachers (even if we assume that the appellants are right, the competent authority would have passed the said order in law). Even if hearing was granted under the Act, some time was required to be granted to vacate by the public authority. If that opportunity, according to the appellant was denied, the learned Judge has granted that opportunity by” providing a hearing. Both the sides have made their submissions before the learned Single Judge elaborately on facts as well as on law. In view of the fact that the appellants were trespassers on a public land which was acquired by the competent authority under the provisions of the Acquisition Act and was allotted for residential purpose to a society and, in view of the pendency of petitions the appellant continued in possession (even after demolition), even if the authority under the Act would have given hearing, the matter would have been over much earlier and therefore no further delay was required.”

14. Similarly, in *Jafar Siddique v. Delhi Development Authority*, 2003 (69) DRJ 311, this Court held as under:

“12. It is thus apparent from the aforesaid that there is no doubt about the proposition that if a person is a tenant, licensee or occupies the property in any legal capacity, if rights are terminated, proceedings must take place in accordance with law



and it is not open to a party to forcibly dispossess such a person. This is so since the said party itself cannot be permitted to decide the status of the occupant and the occupant has a right to defend himself. 13. The question thus which arises for consideration is whether such a right would be available to a person who is a rank trespasser on a government land which land has been acquired under the LA Act. The LA Act is a code by itself providing for procedure for acquisition of the land. Parties are given right to file objections and be heard. In fact, under Section 9 of the said Act, notices are to be given to all persons interested in the land. It is only thereafter that an award is made and published under Sections 11 and 12 of the LA Act. Under Section 16 of the Act, the Collector after having made an award can take possession of the land which vests with the government, free from all encumbrances. This procedure was followed in the present case and the land was duly acquired. The award is of 1972-73.”

15. In view of the above, the Petitioners cannot take the benefit of the PP Act until and unless they show that they are in authorised occupation by showing that they were lawfully inducted.

16. On the facts of this case, this Court is not inclined to accept the contention of the Petitioners that they were inducted lawfully and that they are authorised occupants. Even Petitioners No.5 & 7 also cannot be said to be lawful occupants as they have not paid rents since 2001.

*17. The question as to whether the Petitioners are entitled to resettlement or not is no longer res Integra as the same stands settled by various Judgments of this Court, namely, in Vaishali (minor) through next friend Mrs. Sita Devi & Ors vs. Union of India & Ors., passed in **W.P.(C) 5941/2022** vide Judgment dated 11.04.2022, in Vaishali (minor) through next friend Mrs. Sita Devi & Ors vs. Union of India & Ors., passed in **LPA No.271/2022** vide Judgment dated 19.04.2022, in Shakarpur Slum Union vs. DDA and Ors, passed in **W.P.(C) 6779/2021** vide Judgment dated 02.08.2022 and in Manoj Gupta and Ors, vs. Delhi Development Authority & Ors, passed in **W.P.(C) 9625/2022** vide Judgment dated 04.08.2022, in Manoj Kumar and Ors. vs. Delhi Urban Shelter Improvement Board and Ors., passed in **W.P.(C) 14781/2022** vide Judgment dated 19.10.2022 and in Manoj Kumar and Ors. vs. Delhi Urban Shelter Improvement Board and Ors., (**2023:DHC:2225-DB**) and the Hon'ble Supreme Court has still not interfered in any of the said Judgments passed by this Court.....*

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18. The Petitioners have themselves claimed to be Jhuggi Jhopri Cluster and have claimed the benefit of resettlement under the DUSIB Act. A perusal of the Judgment of this Court in Sethi Devi (supra) shows that until and unless the Petitioners form a part of the cluster identified by the DUSIB, they are not entitled to resettlement or allotment of alternate land. The claim of the Petitioners for resettlement, therefore, cannot be entertained by this Court. There is nothing on record to show that the land on which the Petitioners are residing is a part of any JJ Cluster identified by the DUSIB.

19. This Court does not find any reason to quash the Notice dated 01.03.2024. Accordingly, the Writ Petition is dismissed along with the pending applications, if any.

20. It is always open for the Petitioners to file a Suit to show that they have been lawfully inducted in the premises and that they cannot be dispossessed contrary to law.

(emphasis supplied)

9. In the aforesaid conspectus, it is evident that the present challenge is precluded on account of the aforesaid judgment in ***Sanjay Kumar and Ors.*** (supra).

10. Accordingly, the present petition, along with pending application/s, is dismissed.

SACHIN DATTA, J

MARCH 19, 2025/sl