



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

% **Judgment reserved on : 30 January 2025**
Judgment pronounced on: 03 February 2025

+ **W.P.(C) 7563/2023 & CM APPL. 29322/2023, CM APPL. 31552/2023, CM APPL. 31553/2023, CM APPL. 31554/2023, CM APPL. 35068/2023**

SHRI RAM KISHANPetitioner
Through: **Mr. Sultan Choudhary, Adv.**

versus

DELHI DEVELOPMENT AUTHORITYRespondent
Through: **Ms. Prabhsahay Kaur, SC for DDA with Ms. Deeksha L. Kakar, Adv.**

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The petitioner invokes the extra-ordinary jurisdiction of this Court by instituting the present writ petition under Article 226 of the Constitution of India, 1950, by seeking the following reliefs:

- a) Issue to allow the writ petition of the petitioner with costs;
- b) To restrain the respondent from dispossessing the peaceful physical possession of the petitioner admeasuring 2 Bighas and 12 Biswas in Khasra No. 8 & 12 in the revenue Estate of Village Chak Chilla, New Delhi, as the said lands of the petitioner were deemed to be de-notified and ought to be private land being the possession of the said lands were never been taken over by the respondent at the time of possession proceedings of the award No. 22/1992-93, Village Chak Chilla;
- c) Issue an appropriate Writ, order or direction thereby directing the respondent to produce the entire Award;
- d) To pass such order other and further order/orders as deemed fit and proper by this Hon'ble Court in the facts and circumstances of the case in favour of the petitioner in the interest of justice.



BRIEF FACTS

2. Shorn of unnecessary details, the petitioner aged approximately 65 years, claims to be the owner and bhumidhar of the land situated in Khewat Nos. 8 and 12, measuring approximately (1-1) bighas and 1 bigha, respectively, in the revenue estate of Village Chak Chilla, District South-East, Defence Colony, Delhi, which falls on the north-eastern bank of the Yamuna River (*hereinafter referred to as 'subject land'*). The petitioner has sought to rely upon the *jamabandi* records pertaining to the year 1982-1983 (Annexure P-1), for the purpose of the determination of his ownership over the subject land.

3. Furthermore, it is stated that the subject land was acquired by the respondent in 1992 under Award No. 22/92-93 for the purpose of the planned development of Delhi. Subsequently, while symbolic or paper possession of the subject land was recorded by the respondent on 31.10.1997, physical possession of the land, however, was never taken, and thus, it is claimed that the petitioner has continued to remain in possession of the said land. Significantly, it is stated that though the possession proceedings dated 31.10.1997 indicate that the subject land was included in the said acquisition proceedings but was required to be de-notified from Award No. 22/92-93, Village Chak Chilla. The petitioner asserts that despite the passage of over 30 years since the issuance of the award, the respondent is now attempting to take physical possession of the subject land acquired under the said award. It is further brought out that in May 2023, the respondent



initiated attempts to dispossess the petitioner from the peaceful physical possession of the subject land.

4. At this juncture, it would be pertinent to look into the details of the Khasra Numbers pertaining to these Khewats averred by the petitioner, for which physical possession was never taken by the respondent and which continue to belong to the petitioner, are reproduced hereinbelow for clarity:

KHEWAT NO.	KHASRA NUMBERS FOR WHICH POSSESSION HAS NEVER BEEN TAKEN OVER BY THE RESPONDENT	SIZE IN BIGHAS	SHARE OF THE PETITIONER
12	16/2	(0-12)	51.7 X 20= 1027 BISWAS/2 513.5 BISWAS /5= 102.7 BISWAS/4 =25.6 BISWAS i.e., 1-6 BIGHAS is the share of the petitioner in khewat no. 12
	16/11	(14-14)	
	16/10	(1-2)	
	16/20	(1-2)	
	16/14	(15-1)	
	16/21	(1-8)	
	2/1	(7-5)	
	2/2	(3-9)	
	2/3	(4-10)	
	16/21	(1-4)	
	7/4	(1-0)	
	TOTAL	51-7	
8	16/5	(4-17)	TOTAL LAND 331 BISWAS /4 = 82.75 BISWAS/4=20.6 BISWAS i.e. 1-6 Bighas is the share of the petitioner in Khewat no.8
	16/4	(2-7)	
	16/9	(0-6)	
	16/13	(5-2)	



	43/19	(3-19)	
	TOTAL	16-11	

5. On filing of the present writ petition, appearance was put on behalf of the respondent DDA on advance notice and this Court *vide* order dated 29.05.2023 passed the following order:

“W.P.(C) 7563/2023 & CM APPL. 29322/2023 [Application filed on behalf of the Petitioner seeking interim relief]

2. The grievance of the Petitioner as articulated in his prayers is that the Respondent/DDA be restrained from dispossessing him from the land admeasuring 2 Bighas and 12 Biswas in Khewat Nos.8 & 12 in the Revenue Estate of Village Chak Chilla, New Delhi [hereinafter called “said Land”].

2.1 Learned Counsel for the Petitioner submits that the said Land comprises 16 Khasras and is in possession of the Petitioner and his family for more than seven decades. Learned Counsel seeks to rely on paragraph 5 of the Petition which sets out the specific Khasras in his possession as well as the photographs annexed with the Petition at Annexure P-4 in this regard.

2.2 Learned Counsel further submits that the said Land was initially acquired by the Respondent, however in terms of the Notification No.F9(1)89-L&B/LA dated 25.01.1995, the said Land was withdrawn from acquisition under the Award. Reliance in this regard is placed by the learned Counsel for the Petitioner to the copy of the notification document appended at page 56 of the case file.

2.3 Learned Counsel for the Petitioner also draws the attention of the Court to the photographs which are annexed as Annexure P-5 showing the presence of bulldozers, to submit that the Respondent/DDA is now attempting to dispossess the Petitioner from the said Land, that too without any notice whatsoever or following the due process of law.

3. Learned Counsel for the Respondent/DDA, Ms. Prabhsahay Kaur, appearing on advance Notice, submits that the Petitioner is an encroacher on the said Land. She further submits that the said Land was acquired by the Respondent in the year 1992 under and by virtue of an Award No.22/1992-93 [hereinafter called “the Award”]. Pursuant to the Award, the DDA undertook the symbolic possession of the said Land in the year 1997.



3.1 Ms. Kaur further avers that it is settled law that revenue entries do not confer any title and hence the Petitioner does not have any title to the said Land.

3.2 Learned Counsel further submits, that the demarcation proceedings *qua* the entire area including the said Land have been carried out in 2022 by the concerned Revenue Authorities and that the Respondent is carrying out the actions impugned only on the land belonging to the Respondent and the same is part of a Project for rejuvenation of lands on the Yamuna river in Delhi.

4. Learned Counsel for the Petitioner controverts these submission and submits that so far as concerns the said Land which is in his possession and occupation, the was withdrawn from acquisition under the Award No.22/1992-93 under Notification No.F9(1)89-L&B/LA dated 25.01.1995, It is further submitted that no demarcation proceedings have been ever carried out *qua* the said Land. Learned Counsel submits that unless the Respondents are restrained, there is every likelihood of the Petitioners being dispossessed of the said Land by the Respondent forthwith.

5. Issue Notice.

5.1 Learned Counsel for the Respondent/DDA accepts notice.

6. Learned Counsel for the Petitioner seeks leave to the Court to implead the concerned Revenue Authorities in the present proceedings.

6.1 Let an appropriate Application be filed in that regard within two days.

7. Learned Counsel for the Respondent/DDA requests for and is granted time to file a short Affidavit *inter-alia* setting forth the details in respect of the demarcation proceedings which were carried out by the Revenue Authorities in the year 2022-23 and whether the said Land formed part of such proceedings.

7.1 Let the Affidavit be filed by the along with a copy of the demarcation report, and any other documents that the Respondents seek to rely upon, within two days.

7.2 An advance copy of the Affidavit be also supplied to the learned Counsel for the Petitioner.

8. Till the next date of hearing, the Respondent/DDA shall not take any coercive steps to dispossess the Petitioner from the said Land.

9. List the matter on 01.06.2023.

10. Parties will act based on the digitally signed copy of the order.”

6. During the course of proceedings, a short affidavit dated 01.06.2023 was filed on behalf of the respondent DDA and another additional short affidavit has also been filed through Mr. Pankaj



Gunawat, Deputy Director (Horticulture Division-VIII), DDA dated 27.01.2024.

ANALYSIS & DECISION

7. Having given my thoughtful consideration to the submissions advanced by the learned counsels for the parties and on perusal of the record, this Court finds that the present writ petition is not only not maintainable but also bereft of any merits.

8. **First things first**, although much has been sought to be averred that the acquired and unacquired land of village Chak-Chilla have not been properly demarcated by the DDA or the revenue authorities, it appears that the petitioner in order to seek interim relief, has deliberately omitted to make the revenue department GNCTD a party to the present proceedings.

9. **Anyhow, what is demolishing the entire edifice of the claim of the petitioner is that he** has not placed on record any site plan to establish the precise location of the land allegedly occupied by him, either in the acquired or in the unacquired portion of village Chak-Chilla. The petitioner except for relying upon some entries in *jamabandi* by *Halqa patwari* is not supporting his claim by way of any legally sustainable title deeds or documents. There is bald averment that he is in occupation of about 3 bigha of land, which is *shamilaat deh* belonging to the entire family but it is not supported by any tangible legally sustainable document to even suggest the longitudinal and latitudinal position of the site.

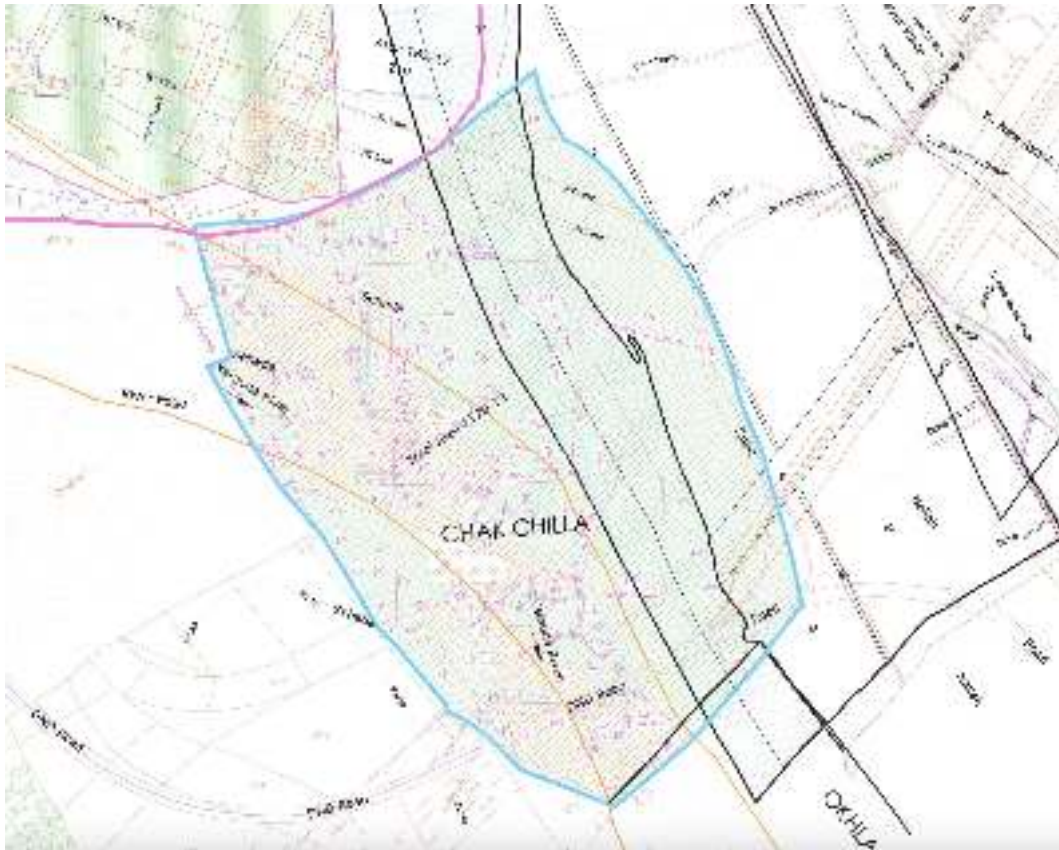
10. Interestingly, it was only during the course of argument that the learned counsel for the petitioner urged for the first time that the



subject land is falling hardly 100 mts. from the Yamuna River between Yamuna and Delhi Meerut Express Highway. The said fact was contested by learned counsel for the respondent DDA pointing out that the area in question is more than 100 acres.

11. In fact, a bare perusal of the khasra *girdwaris* placed on the record from 2014 to 2024 besides aksajra by the petitioner on the record, the land occupied is being described as *sailaab* i.e. the rain water that gets accumulated sideways around the banks of river Yamuna where some or other cultivation is carried out by people including obviously the petitioner growing vegetable.

12. The position is made clear by the respondent/DDA in the short affidavit filed through Mr. Shadiram, Deputy Director (Land Management), DDA dated 01.06.2023 by producing the map of village Chak-Chilla, which goes as under:



13. Learned Standing Counsel for the respondent/DDA explained that the acquired portion of village Chak-Chilla is marked in green whereas de-notified portion is marked in yellow/orange and the entire area evidently falls under Zone 'O' of the river Yamuna Flood Plains. It is pointed out that *kabza karvayee* with regard to acquired land portion was carried out in terms of proceedings conducted on 31.10.1997 and as regards claim of the petitioner with regard to occupation of certain land, Mrs. Prabhshay Kaur, learned Standing Counsel for the respondent/DDA invited attention of this Court to the status filed by the DDA from the land record in another short affidavit dated 27.01.2024, which goes as under:



Khasra nos. (Area/Bigha- Biswa)	Award No.	Possession with DDA (bigha- biswa)	Acquisition withdrawn under Section 48 Bigha-biswa
16/2(7-13)	22/92-93	00-12	07-01
16/11 (14-14)	22/92-93	----	14-14
16/10(01-02)	22/92-93	----	01-02
16/20 (01-02)	22/92-93	---	01-02
16/14 (15-01)	22/92-93	----	15-01
16/21 (01-04)	22/92-93	----	1-04
2/1(07-05)	22/92-93	----	07-05
2/2(03-09)	22/92-93	0-03	3-06
2/3(04-10)	22/92-93	----	4-10
16/21(01-04)	22/92-93	----	01-04
7/4(14-19)	22/92-93	13-19	1-00
16/5(04-17)	22/92-93	----	4-17
16/4(02-07)	22/92-93	----	2-07
16/9(0-6)	22/92-93	----	0-06
16/13(5-2)	22/92-93	----	5-02
43/19(03-19)	----	----	----

14. It was clarified by the learned Standing Counsel for the respondent/DDA that at present the DDA is carrying out construction in respect of the aforesaid three *khasra nos. viz.* 16/2 (7-13) measuring 12 biswas; 2/2 (03-09) measuring 3 biswas; and 74(14-19) to the extent of 13 bighas 19 biswas reserving its right to carry on further construction in the future.

15. All said and done, learned Standing Counsel for the DDA has vehemently urged that, the petitioner despite having been evicted after clearing encroachment has again usurped on a portion of land falling



in *khasra* No. 16/2 (17-13) measuring 12 biswas, which fact was not disputed by the learned counsel for the petitioner.

16. Lastly, the plea of the petitioner that he may be allowed to carry on cultivation of vegetables cannot be sustained in view of the decision made by the National Green Tribunal, Principal Bench, New Delhi in case titled as *Manoj Mishra v. Union of India*¹ *vide* Judgment dated 13.01.2015 whereby the following observations were made:

“(e) It is an established fact that presently, vegetables, fodder grown and allied projects at the flood plain of River Yamuna are highly contaminated. Besides containing ingredients of high pollutants, such produce is even found to contain metallic pollutants. Thus, it is an indirect but a serious public health issue as the persons eating or using such agricultural produce can suffer from serious diseases including cancer. Therefore, we direct that no authority shall permit and no person shall carryout, any edible crops /fodder cultivation on the Flood Plain. This direction shall strictly be adhered to till Yamuna is made pollution free and is restored to its natural wholesomeness.”

17. In the end avoiding long academic discussion we may invite reference to the decision in the case of **Nathu Ram v.DDA**² wherein the court observed as follows:

“23. As for the other contentions made by the parties and evidence presented, this Court observes first, that the plaintiffs have heavily relied upon their and their family members' names reflecting in certain revenue records such as *khasra* *girdawaris* to establish that they have been in ownership and possession of the suit property. However, it is the settled position in law that reflection of a party's name in the revenue records cannot confer title. This was most recently upheld in *Prabhagiya Van Adhikari Awadh Van Prabhag v. Arun Kumar Bhardwaj*, where the Supreme Court held:

“26. This Court in a judgment reported as *Prahlad Pradhan v. Sonu Kumhar*, negated argument of ownership based

¹ Original Application No. 6 of 2012 and M.A. Nos. 967/2013 & 275/2014

² 2022 SCC OnLine Del 315



upon entries in the revenue records. It was held that the revenue record does not confer title to the property nor do they have any presumptive value on the title. The Court held Prahlad Pradhan v. Sonu Kumhar as under:

“5. The contention raised by the appellants is that since Mangal Kumhar was the recorded tenant in the suit property as per the Survey Settlement of 1964, the suit property was his self-acquired property. The said contention is legally misconceived since entries in the revenue records do not confer title to a property, nor do they have any presumptive value on the title. They only enable the person in whose favour mutation is recorded, to pay the land revenue in respect of the land in question. As a consequence, merely because Mangal Kumhar's name was recorded in the Survey Settlement of 1964 as a recorded tenant in the suit property, it would not make him the sole and exclusive owner of the suit property.”

27. The six yearly khatauni for the fasli years 1395 to 1400 is to the effect that the land stands transferred according to the Forest Act as the reserved forest. Such revenue record is in respect of Khasra No. 1576. It is only in the revenue record for the period 1394 fasli to 1395 fasli, name of the lessees find mention but without any basis. The revenue record is not a document of title. Therefore, even if the name of the lessee finds mention in the revenue record but such entry without any supporting documents of creation of lease contemplated under the Forest Act is inconsequential and does not create any right, title or interest over 12 bighas of land claimed to be in possession of the lessee as a lessee of the Gaon Sabha.”

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36. In view of the above settled legal position, that mere sporadic or stray entries in the revenue records cannot confer title, and the facts mentioned above, this Court is of the opinion that the plaintiff has failed to establish that there is any substantial question of law which deserves to be adjudicated upon in the present second appeal. In fact, from the evidence which has emerged from the record, it is clear that apart from some mention in khasra girdawaris, there are no other concrete documents which have been filed by the plaintiff to discharge the heavy onus that is placed on him.”

18. In summary, the petitioner is unable to lay any foundation to his case for want of exact details, specifications and location of occupation of any land. The revenue entries in the nature of



jamabandi records pertaining to the year 1982-1983 (Annexure P-1) are no conclusive evidence of the ownership or bhumidari rights of the petitioner. Moreover, the petitioner has apparently re-encroached upon an area which stands acquired by Award No. 22/92/93 dated 25.01.1995 which falls in Zone 'O' viz., the Yamuna Flood Plains area and causing hindrance in the completion of Eco-Restoration Plantation project being undertaken by the DDA as part of a Public Project, namely 'Restoration and Rejuvenation of River Yamuna Project'.

19. In view of the foregoing discussion, the present writ petition is dismissed for being not maintainable as also for being bereft of any merits with costs of Rs 5,000/- upon the petitioner for abusing the process of law.

20. The pending applications also stand disposed of.

DHARMESH SHARMA, J.

FEBRUARY 03, 2025

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