



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

% **Judgment reserved on : 28 January 2025**
Judgment pronounced on : 03 February 2025

+ W.P.(C) 4378/2020 & CM APPL. 15758/2020, CM APPL. 15759/2020, CM APPL. 15760/2020, CM APPL. 21550/2020, CM APPL. 21551/2020, CM APPL. 21552/2020, CM APPL. 21553/2020, CM APPL. 21554/2020, CM APPL. 21555/2020, CM APPL. 21556/2020, CM APPL. 21557/2020, CM APPL. 21558/2020, CM APPL. 27030/2020, CM APPL. 27031/2020, CM APPL. 27032/2020, CM APPL. 27053/2020, CM APPL. 27054/2020, CM APPL. 27055/2020, CM APPL. 27056/2020, CM APPL. 27057/2020, CM APPL. 27058/2020, CM APPL. 27061/2020, CM APPL. 27062/2020, CM APPL. 27063/2020, CM APPL. 27065/2020, CM APPL. 27066/2020, CM APPL. 27067/2020, CM APPL. 27069/2020, CM APPL. 27070/2020, CM APPL. 27071/2020, CM APPL. 27072/2020, CM APPL. 27073/2020, CM APPL. 27074/2020, CM APPL. 27075/2020, CM APPL. 27076/2020, CM APPL. 27077/2020, CM APPL. 27078/2020, CM APPL. 27079/2020, CM APPL. 27080/2020, CM APPL. 27081/2020, CM APPL. 27082/2020, CM APPL. 27083/2020, CM APPL. 27084/2020, CM APPL. 27085/2020, CM APPL. 27086/2020, CM APPL. 27089/2020, CM APPL. 27090/2020, CM APPL. 27091/2020, CM APPL. 27094/2020, CM APPL. 27095/2020, CM APPL. 27096/2020.

RAM SINGH SAINIPetitioner

Through: Mr. Sanjay Kumar, Adv.
versus

DELHI DEVELOPMENT AUTHORITYRespondent

Through: Ms. Manika Tripathy, Standing
Counsel with Ms. Deeksha L.
Kakar, Mr. Ashutosh Kaushik
and Mr. Rashneet Singh, Adv.
for DDA with Mr. Kamleshwari
Pandit, Naib Tehsildar.



+ W.P.(C) 5970/2020, CM APPL. 21580/2020, CM APPL. 25622/2020

RAMESH SAINI AND ORS.Petitioners
Through: Mr. Yogesh Tiwari and Mr. Vikrant Singh Bais, Advs.
versus

DELHI DEVELOPMENT AUTHORITY & ANR.Respondents
Through: Mr. Sanjay Katyal, Standing Counsel for DDA.
Ms. Manika Tripathy, Standing Counsel with Ms. Deeksha L. Kakar, Mr. Ashutosh Kaushik and Mr. Rashneet Singh, Advs. for DDA with Mr. Kamleshwari Pandit, Naib Tehsildar.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This common judgment shall decide the above-noted two writ petitions which have been preferred by the petitioners, seeking to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950, for directions in the nature of *mandamus* to the respondent/DDA to allot them alternative plots in lieu of the respective pieces of land occupied by them, either through their ancestors or in their own rights, or in the alternative, to award compensation to each one of them for acquisition of their land and destruction of their crops besides damage to their household belongings. Both the writ petitions raise a common question of law,



with more or less identical factual narrative and can be conveniently disposed of together.

2. It is pertinent to mention that there are 85 petitioners in W.P.(C) No. 4378/2020, whereas there are 32 petitioners in W.P.(C) No. 5970/2020.

3. Briefly stated, in **W.P.(C) No. 4378/2020**, it is the case of the petitioners that each of them has been occupying and doing cultivation on agricultural land measuring about 5 to 20 Bigha falling in Khasra No.12(min), Khasra No. 208/204 (min) and Khasra No. 206/11 (min) situated at Chirage Sumali (near Khajuri Khas), Delhi and Khasra No. 265/107 (min) situated at Bela Estate, Delhi. The petitioners claim that they have been in continuous physical and lawful possession of the respective agricultural land being owners thereof; and that the predecessor-in-interest of respondent/DDA i.e., DIT¹ in the year 1949 allotted a total of 19,344 bigha of agricultural land on yearly rent of Rs. 59,863/- to a society, viz., **Delhi Peasant Co-operative Multipurpose Society Ltd.**² in various revenue states including Village Chirage Sumali, Bela Estate and Nangli Rajapur, with the right to allot/sub-lease the said land to various farmers and recover land Revenue/Lagaan from them and deposit the same with the respondent. They claim that on allotment of their respective land from the Society, they have been conducting agricultural activities and regularly paying lease money to the Society.

¹ Delhi Improvement Trust

² DPCMSL



4. Likewise, in **W.P.(C) No. 5970/2020**, it is stated that apart from DPCMSL, land was also allotted by the DIT in 1949 to another society, viz., **Jheel Khuranja Cooperative Milk Producers Society Ltd.**³, which Society too allotted/ sub leased various pieces of land to them and had been claiming Revenue/Lagaan from them.

5. In a nutshell, it is the claim of the petitioners in both the writ petitions that the conditions of allotment were governed by a letter dated 14.03.1950⁴ issued by the Ministry of Rehabilitation⁵, Government of India; and that the purpose of allotment of land to the societies primarily was rehabilitation of the displaced milk producers and extending them the benefit of milk production and distribution on co-operative basis in Delhi. It is emphasized that although the lease was initially granted to the two societies for a period of five years, the same has been extended from time to time.

6. It is claimed that the respondent, sometime in the year 1967, not only proposed to terminate the lease in favour of the societies, but instead also provided that the individual cultivators/milk producers like the petitioners shall be given direct lease of the land under the cultivation and milk production, for which reference is invited to Resolution dated 30.04.1973⁶. It is claimed that pursuant thereto, some of the petitioners directly started paying rent to the respondent/DDA that was duly paid till about the year 1977.

³ JKCMPSL

⁴ Reference No. RHB-37(1)49

⁵ MOR

⁶ Annexure P-4 in W.P.(C) No. 5970/2020



7. The grievance of the petitioners in unison is that sometime in the year 1982, eviction proceedings were initiated by the respondent/DDA through its Estate Officers for eviction of the societies as well as individual agriculturist/cultivators; and in the year 2002, some of the members of the society were illegally evicted from the land falling in the above-noted Khasra numbers, which led to a prolonged litigation, and eventually the petitioners already stand evicted from their respective parcels of the land. At the cost of repetition, it is in the said backdrop that the petitioners in the instant two writ petitions seek rehabilitation by way of allotment of alternate plot, kiosk, etc., and/or seek compensation for loss and damage to their crops and the construction etc. raised upon the subject land.

8. A perusal of the record shows that on advance notice, appearance has been put by the respondent/DDA. In view of the submissions made by the learned Standing Counsel for the DDA, the following observation came to be passed *vide* order dated 10.08.2023 by this Court:-

“1. Learned Standing Counsel who appears on behalf of Respondent/DDA submits that the issue raised by the Petitioner has already been adjudicated by the Courts. She seeks to reply upon the orders passed by the Supreme Court and this Court from time to time which have been filed by the Respondent/DDA including on 04.08.2020 and 21.10.2021 to submit that, the Petitioner has no locus to file the present Petition.

1.1 Learned Standing Counsel for the Respondent further submits that it is for this reason that no notice has been issued in the matter till today and requests that the matter be taken up for hearing and disposal.

2. None appears on behalf of the Petitioner.



3. The record shows that there are 18 impleadment applications which are pending.

3.1 Replies, if any be filed in four weeks.

3.2 List these applications before the Joint Registrar (Judicial) on 25.09.2023.

4. List the matter for arguments on the issue of maintainability of the present Petition on 19.01.2024.

5. Learned Counsel for the parties shall file their respective written synopsis, not exceeding three pages each, at least one week before the next date of hearing, along with compilations of judgments, if any, they wish to rely upon.

5.1 All judgments sought to be relied upon by the learned Counsel for the parties shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.”

LEGAL SUBMISSIONS ADVANCED ON BEHALF OF THE PETITIONERS

9. Mr. Sanjay Kumar, learned counsel for the petitioners in W.P.(C) No. 4378/2020 urged that the petitioner is seeking only the relief of rehabilitation in the nature of alternate allotment of land in view of various policies framed by the respondent/DDA, whereby in a similar situation, the displaced persons have been allotted alternate sites. In this regard, he has referred to a Policy regarding allotment of Motia Khan Steel Merchants⁷, whereby it is recorded that at the time of clearance of the Motia Khan area in the year 1975-76, the evictees who were paying damages to DDA at relevant time, were given alternative allotment in Naraina, Mayapuri or Kirti Nagar at reserve rates by the Allotment Committee.

10. Learned counsel for the petitioners vehemently urged that the actions of the respondent, thereby uprooting the petitioners from their

⁷ Annexure-5 Reference No. 211 A-11.10.77



longstanding & settled occupation and possession of their respective lands, and further by depriving them of alternative plots, violates the provisions of Article 14 of the Constitution of India, 1950, inasmuch as they have been given a differential treatment, effectively rendering them homeless and depriving them of their fundamental right to have shelter for peaceful and meaningful living.

11. Mr. Yogesh Tiwari, learned counsel for the petitioners in W.P.(C) No. 5970/2020 urged that the petitioners had come to occupy their respective land in the Revenue Estate of Jheel Khuranja as well as Chirage Sumali, through the land allotted to DPCMSL and JKCMPSL, not only for the purposes of augmenting agricultural resources, but also for production of milk and improving the availability of milk to the residents of Delhi.

12. Learned counsel urged that the Government has framed several policies for rehabilitation of the displaced persons and who have been allotted alternative land, residential or commercial in various parts of Delhi, whereas the petitioners have been left out in the lurch.

LEGAL SUBMISSIONS ADVANCED ON BEHALF OF THE RESPONDENT/DDA

13. Learned Standing Counsel for the respondent/DDA, in her short submission, canvassed that the issue of displacement of the so-called agriculturists/cultivators or milk producing community who occupied some parcels of land on sub-lease/allotment by the two referred societies, have already been addressed up to the Supreme Court and the petitioners have no legal right to continue to occupy the premises.



It was also urged that there is no policy framed by the DDA so as to rehabilitate people who have been displaced from the present Revenue Estate of Jheel Khuranja and Chirage Sumali, which were allotted to the aforementioned two societies long time back by the predecessor of the DDA and whose lease already stand terminated.

14. Reference in this regard was invited to the decisions in the cases of **Randheer and Others v. Commissioner of Police**⁸; **Randheer and Others v. Commissioner of Police**⁹; **Yamuna Bank Kishan Bachao Morca v. State of NCT of Delhi and Others**¹⁰ and **Roshan Lal v. DDA**¹¹.

ANALYSIS & DECISION

15. Having heard the learned counsels for the parties and on perusal of the record, this Court has no hesitation in holding that both the writ petitions are not only not maintainable, but also tantamount to gross abuse of the process of law.

16. First things first, although the petitioners have relied upon copies of Khasra Girdawaris of the Village Chirage Sumali Tehsil, however, a bare perusal thereof would show that the recorded landlord/owner is shown to be the “Government” and some of the Khasra Girdawaris also record the aspect of illegal occupation of the land by the petitioners & their family members. It is evident that the petitioners have clubbed different individual causes of action into a kind of a composite petition and none of them is laying foundation to

⁸ LPA No. 196/2023 decided on 11.10.2023.

⁹ WPC 11871/2022 decided on 15.03.2023.

¹⁰ WP (CrI.) 2035/2020 decided on 01.02.2022.

¹¹ WPC 12/2019 decided on 08.03.2022.



his or her legal rights over their respective lands on the basis of any title, right or interest. So much so that even the land, if any, in possession of each and sundry, has not been specified or identified through khasra numbers, exact measurements or longitudinal or latitudinal position. In other words, a vague, generalised and wild averment is made that each one of the petitioners had been occupying about 5 to 20 Bighas of land but the same is not supported by any legal documents to show their legal title, right or interest in any of the parcels of land. Moreover, no site plan has been placed on record by the petitioners to corroborate their alleged occupation over the subject land.

17. Be that as it may, it is borne out from the record that proceedings under Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971¹² were initiated against several individual farmers/milk producers impleading the DPCMSL & JKCMPSL on determination of lease by the DDA; and resultantly, relying on decision by the Supreme Court in the case of **Azim Ahmad Kazmi v. State of UP**¹³ and the decision of this Court in W.P.(C) No. 256/2013 dated 24.05.2013, the learned Estate Officer directed each of the occupants/noticees, besides the Society, to vacate the respective land in question within 15 days of such order. It is borne out from the record that the eviction orders were challenged by a bunch of the individuals by filing writ petitions before this Court, which came to be dismissed. The aggrieved persons, then preferred as many as 36

¹² PP Act.

¹³ Civil Appeal No. 2006-07/2003 dated 16.07.2012



appeals and 05 writ petitions which came to be considered by the Division Bench of this Court in LPA No. 479/2013 and others and decided *vide* judgment dated 31.01.2018.

18. In a nutshell, this Court considered the land in dispute that was leased out to two difference societies viz., DPCMSL and JKCMPSL, and those petitioners who claimed to have been allotted land by the JKCMPSL were placed in Group 'A' whereas those who were claiming to have been allotted land by DPCMSL were placed in Group 'B'. The judgment records the entire history of the subject land and the purpose and manner in which allotment of land was to the aforesaid two societies, determination of lease as well as the history of litigation under the PP Act besides various eviction orders passed which later became the subject matter of several writ petitions. In this regard, it would be expedient to reproduce the relevant observations made by the learned Judges of the Division Bench, which goes as under:-

“55. The appellants and the writ petitioners have failed to establish that the action of DDA under the PP Act for vacation of the land in their occupation is illegal and the orders of the Estate Officer are without jurisdiction and authority.

56. Admittedly, the eviction orders of Estate Officers under the PP Act against some of the occupants of public premises claiming heir rights through Jheel Khuranja Cooperative Milk Producers Society Limited were upheld by the Coordinate Bench of this Court in **Smt. Dhan Kaur** (*supra*). Similarly, the eviction orders passed under the PP Act by Estate Officers against some of the occupants of public premises, claiming their rights through Delhi Peasants Cooperative Multipurpose Society Limited, were upheld by the Coordinate Bench of this Court in **Brij Pal** (*supra*) in LPA No. 810/2015, decided on 17.11.2015. These two orders of Coordinate Benches of this Court – in respect of property allotted to Jheel Khuranja Cooperative Milk Producers Society Limited and Delhi Peasants



Cooperative Multipurpose Society Limited relate to the same properties which were allotted under the same agreements to these Societies, though were in occupation of some other members of these Societies (other than the appellants and the writ petitioners before us), are binding on us on the principles of constructive *res judicata* and also on the principle that the similarly placed persons should be treated alike. The appellants and the writ petitioners before us are similarly placed persons and the earlier findings given in respect of similarly placed persons are also binding on them.”

19. It is further borne from the record that the aggrieved persons who are similarly placed as the petitioners in the instant writ petitions preferred several Special Leave Petitions bearing SLP (C) No. 5253/2018 titled “Shiv Shankar v. D.D.A.” and others, which came to be dismissed by the Supreme Court *vide* order dated 20.03.2018, granting time to the said petitioners to vacate the land by 31.12.2019. Thereafter, similar SLP(C) Nos. 33490-33492/2016, 5372-5391/2018, 33493-33510/2016 and 1853-1876/2017 also came to be dismissed by the Supreme Court *vide* order dated 16.12.2019, granting time to the petitioners to vacate the land by 31.03.2020. Lastly, *vide* order dated 18.12.2019 passed in SLP(C) No. 14215/2019, the Supreme Court took cognizance of the order dated 13.12.2019 passed by it in SLP (C) No. 5253/2018 and refused to order any further extension to the time granted to the petitioners therein to vacate the land in question, thereby dismissing the SLP(C) No. 14215/2019.

20. In the said backdrop, while any dispute regarding the land in question involving the two societies and individual occupiers through such societies must have rested in perpetuity, the instant petitions are a gross abuse of the process of law as it appears that some or the other



so-called occupants/cultivators under different names or under different organizations, keep filing one petition after the other with ulterior motives. This Court in an earlier case titled ***Yamuna Bank Kishan Bachao Morcha (supra)***, decided by the learned Single Judge of this Court *vide* order dated 01.02.2022, considered the claim of the petitioner-society seeking cultivation rights in respect of several farmers over 15,000 *bighas* of land in the same areas, re-agitating that lagaan was being paid by their forefathers since 1932 till 2012 to DPCMSL. It would be pertinent to mention here that this Court made the following observations:-

8. It is stated that in 2013 writs have been filed restraining the authorities from dispossessing the farmers who were occupying the banks at river Yamuna without following the procedures established under law. The land in question in the said writ petition had been leased out to two different Societies namely **Jhil Khuranjia Milk Producers Co-operative Society Ltd. and Delhi Peasants Co-operative Multipurpose Society Ltd.** Material on record show that the members of the petitioner Society were paying certain amount to the Delhi Peasants Co-operative Multipurpose Society Ltd. The said writ petitions were dismissed. LPAs were filed against the order of dismissal. This Court *vide* judgment dated 31.01.2018 dismissed the batch of LPAs. While dealing with the land which was allotted to the Delhi Peasants Co-operative Multipurpose Society Ltd., it was found that in 1949 the Delhi Peasants Co-operative Multipurpose Society Ltd. was allotted agricultural land measuring 13,344 bighas on leasehold basis for a period of 5 years by the Delhi Improvement Trust (hereinafter referred to as 'DIT'). The said lease was extended from time to time. It was found that DDA, who is the successor of DIT, sought cancellation of the lease deed and asked the Delhi Peasants Co-operative Multipurpose Society Ltd. to handover the possession of the land. Notices under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the PP Act') were issued by the Estate Officer to the individual cultivators and the eviction orders were passed in the year 1991-1992. After several proceedings, the eviction



proceedings were started by the DDA in the year 2004 and eviction orders were passed on 01.08.2007 for vacation of the land. The matter was remanded back to the Estate Officer and final orders were passed by the Estate Officer. The said orders were unsuccessfully challenged in appeal. The orders dismissing the appeals were challenged before this Court by filing writ petitions. The writ petitions were dismissed by this Court *vide* order dated 21.10.2016.

9. In the LPAs a contention was raised stating that members of the Society were tenants who were in occupation and possession of lands and, therefore, PP Act could not have been initiated against them since they are not unauthorized occupants. The Division Bench of this Court *vide* order dated 31.01.2018 held that the occupants of the land could be evicted by resorting to PP Act. It was found that the members of the Society had become unauthorized occupants of the land belonging to DDA. It is pertinent to mention here that the petitioners in the said writ petition contended that there was collusion between the Society and the DDA. It was stated that the members of the petitioner Society were paying money to the Delhi Peasants Co-operative Multipurpose Society Ltd.

10. The appellants therein preferred an appeal against judgment dated 31.01.2018 before the Hon'ble Supreme Court in SLP(C) Diary No. 5253/2018 titled as Shiv Shankar & Ors. v. DDA, and other appeals, wherein the Apex Court dismissed the SLP while upholding the judgment passed by this Court and directed the appellants to vacate the subject land by December, 2019.

21. Incidentally, this Court also noted the fact that even a Curative Petition (C) No. 38-52/2020 titled "Sunil Kumar vs. Delhi Development Authority" was filed before the Apex Court which also came to be dismissed on 21.05.2020. At this juncture, it would also be appropriate to refer to the directions passed by the National Green Tribunal with respect to the encroachments in the Yamuna floodplains by agriculturists/farmers, as elucidated by this Court in ***Yamuna Bank Kishan Bachao Morca (supra)***, which read as under:



“12. It is stated that the National Green Tribunal *vide* judgment dated 13.01.2015 in O.A. NO. 6/2012 titled as *Manoj Mishra v. UOI*, judgment dated 07.12.2017 in O.A. No. 76/2016 and O.A. No. 81/2016 titled as *Manoj Mishra v. UOI*, judgment dated 11.09.2019 in O.A. No. 6/2012 titled as *Manoj Mishra v. UOI*, has directed the DDA to ensure that the Yamuna floodplains remain encroachment free. It is stated that the National Green Tribunal in O.A. No. 6/2012 titled as *Manoj Mishra v. UOI*, has directed the DDA to undertake physical demarcation of the entire floodplains within three months and after taking re-possession, fence the area and convert it into a bio-diversity park. *Vide* judgment dated 07.12.2017, the NGT reiterated that the floodplains of Yamuna should not be permitted for construction, occupation, habitation etc. and it is the duty of the answering respondent/DDA to maintain the natural features and ecology of the floodplain.

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14. It is also pointed out that besides the judgments of the National Green Tribunal, a Division Bench of this Court *vide* judgment and order dated 03.04.2013 in *Haq*, through its members *Abdul Shakeel v. DDA*, 2013 SCC OnLine Del 1284, had held that by removing the encroachment on the Yamuna floodplains, DDA is only complying with the directions of the Court and no fault can be found with the DDA on this account. Moreover, the Court found that there was no question of providing rehabilitation to those in illegal occupation of land.

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25. The petitioners have filed Annexure P-2, which is a notice under Section 4(2)(b)(i) of the Public Premises (Eviction of Unauthorized Occupants) Act wherein the noticee has been shown as an occupant and had been asked to remove. The Annexure demonstrates that the members of the Delhi Peasants Co-Operative Multipurpose Society Ltd. are purely unauthorized occupants of the area who had been directed to be removed by this Court and the National Green Tribunal. This Court has also gone through the various orders passed by the National Green Tribunal directing the DDA to evict the unauthorized occupants. By order dated 11.09.2019 NGT had directed that a bio-diversity park must be established in that area in order to cleanse river Yamuna. It is also stated that the society has filed a civil suit being Civil Suit No. 77/2021 on the file on Additional District Judge, Tis Hazari Courts, wherein the petitioner sought prayer for injunction restraining DDA from evicting its members. The said suit is pending.

26. The petitioner has not been able to establish any semblance of right on the property. Other than filing few receipts which shows that money has been paid to the Delhi Peasants Co-Operative Multipurpose Society Ltd. in Bela estate, which is a Nazul land, does



not confer any right to the petitioner especially when the Delhi Peasants Co-Operative Multipurpose Society Ltd. has already failed in its attempt and the members of the petitioner/Society have been held trespassers by the Division Bench in LPA 479/2013 and other connected matters and the SLP, review and curable petitions arising out of the said order have been dismissed by the Apex Court.

27. The writ petition shows that the petitioners are growing crops of Radish, Brinjal, Potato, etc. which is clearly prohibited by the order of the National Green Tribunal. The National Green Tribunal by order dated 13.01.2015 has observed as under:—

“51. Unauthorised activities are being carried out on the floodplain and at some places they have even encroached up to the riverbed of Yamuna. Agricultural products raised from these areas have shown to be injurious to human health, primarily for the reasons that the river carries very high pollutants, including heavy-metals and acidic elements. One of the studies brought on record which is even supported by the United Nations, is the first to link river contamination with adverse impacts on human health. According to this study, around 23% of children had lead levels in their blood above 10 micro grams - a widely accepted guideline - whose adverse health effects have been noted. The study said high level of lead in blood was eight times more when exposed to the riverbank after Wazirabad in north Delhi, compared to rural areas upstream in Haryana, where river water contamination was found to be less. Heavy metals such as lead are more readily absorbed by children as compared to adults. The resultant disasters would be impairment of motoring skills, onset and development of hypertension and may even result in slow cognitive development. Water and soil samples were lifted every 2 km, starting, from Wazirabad Barrage and covered 22 km of the river in the capital. The presence of heavy metals increased after Wazirabad even though every drop of water that flows in the river in Delhi has to be cleaned through Sewage Treatment and Effluent Treatment Plants. Presence of heavy metals was negligible in Haryana. Hexavalent chromium, said to be hazardous was found to be highest at Old Yamuna Bridge and Indraprastha Estate Power Plant. This is the area where maximum vegetables are grown on riverbed. At this point there is also heavy industrial discharge into the river.

52. Agricultural activities must be carried on as it is essential for our day to day living, but, agriculture produce that will lead to greater harm to human health must be checked and if necessary should also be, stopped. The principle of ‘Inter-generational Equity’ would require that today’s younger generation should not be exposed’



to serious health hazards and thus, it will not only be desirable but essential that such contaminated produce/vegetables are not offered for consumption to the people at large. The Principle of Comparative Hardship would clearly mandate that where the injury is n much; greater in proportion to the benefit that would accrue as a result of such activity, the activity must be stopped in the larger interest of the public and of public health.”

22. But then again, the same issue was re-agitated with regard to the land allotted by DPCMSL in a writ petition bearing WP(C) No. 12/2019 titled “**Shri Roshan Lal v. DDA**” which was decided *vide* judgment dated 08.03.2022 by a learned Single Judge of this Court, wherein the following observations were made:-

“10. It is thus evident that the petitioner essentially sought protection in accordance with the orders of the Supreme Court noted above and thus could have asserted a right to be permitted to occupy the land up to 31 March 2020 only. However, despite the unequivocal stand taken by the petitioner and which consequently bound him to hand over vacant possession latest by 31 March 2020, the interim protection accorded when the writ petition was originally entertained on 04 January 2019 has continued to operate and the petitioner has remained in occupation of the land in question till date.

11. The Authority in terms of its reply which has been tendered in these proceedings has while adverting to the litigation which ensued additionally made the following significant disclosures. It asserts that the land over which the petitioner claims cultivatory rights was entrusted to the Trust in terms of a Nazul agreement executed in its favour on 31 March 1937. As was noted above, the respondent Authority is the successor of that Trust. It is also not disputed inter partes that the lease agreement as executed in favour of the Society came to an end by efflux of time on 14, June 1966 and that it was thereafter called upon to hand over possession. It is further submitted that since the members of the Society failed to vacate the subject land, proceedings under the Act came to be instituted. The Authority asserts that no right inheres in the petitioner to retain possession of the subject land once the rights of the Society over the same came to an end.

12. The Authority further apprises the Court that the land in question falls in the Yamuna Riverbed Zone 'O'. It has referred to the various orders passed by the Supreme Court and the High Court



commanding authorities to remove all illegal and unauthorised encroachments from Zone 'O' of the Yamuna Riverbed. The record reflects that the task of rejuvenating the Yamuna river and its surroundings embankments also formed subject matter of consideration of the National Green Tribunal. It is disclosed that as per the Seven Phase Plan approved by the Tribunal, the Authority has completed the work of development between the Old Railway Bridge to ITO Bridge on the western side of Yamuna situate in Bela Inderpat revenue estates. It is stated that a plan to develop the Asita Park has also been duly approved and is to be implemented upon the land in question. It is pointed out that the interim order passed in this writ petition has seriously hampered and impaired the completion of a project duly sanctioned and approved by the Tribunal and one which is of vital public importance.

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16. It must at the outset be noted that the petitioner had approached the Court essentially seeking protection in terms of the orders of the Supreme Court and which would have thus entitled him to retain possession of the subject land only till 31 March 2020. He had unambiguously stated in the writ petition that he was willing to submit an undertaking on lines as envisaged in those orders and it was to this limited extent alone that intervention of the Court was sought. Viewed in that light, it is perhaps not even legally permissible for him to now turn around and assert that his right of occupation either stands perfected under the provisions of the 1954 Act or seek protection of the provisions of the 2007 Act even if they were assumed to apply. However, since Mr. Mishra has addressed submissions on those lines with great vehemence the Court proceeds to deal with the contentions urged hereinafter.

17. Before proceeding to do so, it becomes necessary to preface the conclusions which follow with the following undisputed facts which are manifest from a perusal of the record. The petitioner has abjectly failed to place on the record any evidence which may have established a right conferred on him or his forefathers to possess the land or claim title thereon. The case of the petitioner also does not rest on any allotment or grant that may have been made by a competent authority in accordance with law. The receipts of payment of periodical rent to the Society cannot possibly be viewed as evidence of title over the land. While the petitioner may have cultivated the land by virtue of being a member of the Society, once the rights of that entity over the land came to be extinguished, no right survived in the petitioner to remain in occupation. To put it differently, the petitioner by virtue of being a



member of the Society cannot possibly claim a right superior to that which stood conferred on that body.

18. The Court then proceeds to deal with the submissions addressed by Mr. Mishra based on the provisions of the 2007 Act. In order to adjudge the merits of the contentions addressed, it would be relevant to firstly take note of some of the salient provisions of that enactment. The expression 'encroachment' has been defined therein as follows:-

"2. Definitions.-

(c) "encroachment" means unauthorised occupation of Government land or public land by way of putting temporary, semi-permanent or permanent structure for residential use or commercial use or any other use;"

19. The 2007 Act proceeds to define "unauthorized development." in the following terms:-

"2. Definitions.—

(i) "unauthorised development" means use of land or use of building or construction of building or development of colonies, village abadi area and its extension, carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or in contravention of the land use as permitted under the Master Plan or Zonal Plan or layout plan, as the case may be, and includes any encroachment."

20. Section 3 which deals with the subject of enforcement action being placed in abeyance until a policy for relocation and rehabilitation is framed reads as under:-

"3. Enforcement to be kept in abeyance.— (1)

Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the Central Government shall before the expiry of this Act, take all possible measures to finalise norms, policy guidelines and feasible strategies to deal with the problem of encroachment or unauthorised development in the form of encroachment by slum dwellers and *Jhuggi-Jhompri* clusters, hawkers and urban street vendors, unauthorised colonies, village *abadi* area and its extension, existing farm • houses involving construction beyond permissible building limits and schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land, as mentioned below:—

(a) policy for relocation and rehabilitation of slum dwellers and *Jhuggi-Jhompri* clusters in accordance with provisions of the



Master Plan of Delhi, 2021 to ensure development of Delhi in a sustainable, planned and humane manner;

(b) strategy for regulation of urban street vendors in consonance with the national policy for urban street vendors and hawkers as provided in the Master Plan of Delhi, 2021.

(c) scheme containing guidelines for regularisation of unauthorised colonies, village abadi area and its extension, as existed on the 31st day of March, 2002, and where construction took place even beyond that date and up to the 8th day of February, 2007;

(d) policy regarding existing farm houses involving construction beyond permissible building limits; and

(e) policy regarding schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land

(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, *status quo*-

(i) as on the 1st day of January, 2006 in respect of encroachment or unauthorised development, and

(ii) in respect of unauthorised colonies, village *abadi* area and its extension, which existed on the 31st day of March, 2002 and where construction took place even beyond that date and up to the 8th day of February, 2007, mentioned in sub-section (1), shall be maintained.

(3) All notices issued by any local authority for initiating action against encroachment or unauthorised development referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken till the 31st day of December, 2008.

(4) Notwithstanding any other provision contained in this Act, the Central Government may, at any time before the 31st day of December, 2008, withdraw the exemption by notification in respect of encroachment or unauthorised development mentioned in sub-section (2) or sub-section (3), as the case may be.

21. It becomes relevant to note that the 2007 Act had essentially taken note of the phenomenal increase of population pressure on the National Capital Territory owing to migration and various other factors. The enactment also takes note of the tremendous pressure caused by the influx of people on existing land and infrastructure and which in turn had led to widespread encroachments and unauthorized developments. In order to holistically deal with the aforesaid issue, the 2007 Act contemplates the formulation of rehabilitation and relocation schemes and for planned development of the National Capital



Territory region. However, it becomes pertinent to move that the encroachments which are sought to be remedied pertain to these existing on public land and where temporary, semi-permanent or permanent structures for residential, commercial or any other use may have come to exist. The unauthorized development which the 2007 Act seeks to remedy also relate to use of land or buildings. developments of colonies, village abadi areas carried out in contravention of sanctioned plans or in violation of the land use as permitted under the Master Plans and the Zonal plans as may have been drawn by the authority or Delhi Municipal Corporation. However, the 2007 Act does not even remotely deal with unauthorized occupation of rural land. The definition of the expressions encroachment and unauthorised development clearly establishes that the enactment in essence seeks to remedy unauthorised development in urban and semi urban areas. Its provisions can by no stretch of imagination be read as according protection to the occupation of the subject land by the petitioner. The submissions addressed on this score consequently stand rejected.”

23. In summary, the petitioners in the instant writ petitions have woefully failed to prove any legal right whatsoever in the subject land. The petitioners have also failed to refer to any specific public policy declared by the respondent/DDA or for that matter by the GNCTD that would make them entitled to allotment of any alternate residential, agricultural or commercial sites. In any case, since the petitioners have never been recognized as the land owners, *bhumidars* or *asami* in respect of the subject land, their claims for alternate allotment or compensation on the ground of the DDA damaging the crops and/or their construction, are also not maintainable in law.

24. In view of the foregoing discussion, the present writ petitions, being not maintainable and being bereft of any merits, stand dismissed. Consequently, all pending applications including the applications filed in W.P.(C) No. 4378/2020 for impleadment of



certain so-called affected persons, also stand dismissed. In the facts and circumstances of the present matters, each petitioner is visited with costs of Rs. 5,000/- each to be paid to the Delhi High Court Legar Services Committee within a month from today for wasting the precious time and efforts of this Court resulting in gross abuse of the process of law.

DHARMESH SHARMA, J.

FEBRUARY 03, 2025

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