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

+ **W.P.(C) 10739/2023 & CM APPL. 50054/2023, 55218/2023**

CHAMPA DEVI & ORS.

.....Petitioner

Through: Mr. M. Sufian Siddiqui and Mr.
Rakesh Bhugra, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Shobhana Takiar, Standing
Counsel with Ms. Kritika Gupta, Mr. Shivam
Takiar, Mr. Prateek Dhir and Mr. Kuljeet Singh,
Advocates for DDA.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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03.12.2025

1. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“a. Issue a Writ of Mandamus or any other analogous Writ, Order or Direction thereby directing the respondent herein/DDA to produce the authority of law under which the ex-facie illegal, inhuman and inscrutable dispossession and demolition drive was precipitously carried out whilst striking a blow at the very edifice of ‘Rule of Law’ and in brazen violation of the most sacrosanct unwritten principle of law (jus non scriptum) i.e. ‘Principle of Natural Justice’ on 02.03.2023, at the premises in question viz. Khasra No. 136 & 137 (Old No. 179) area admeasuring 1-Bigha & 2-Biswas and 2-Bighas & 13-Biswas respectively as recorded in the revenue record of Village-Bibi Pur, New Delhi, and also lately known as T-56/6, Peer Ki Mazar, DDA, Vikas Sadan, INA, New Delhi, which was in continuous unhindered, peaceful, and settled possession/occupation of the petitioners and their predecessors in interest since the Year 1910; and

b. Issue a Writ of Mandamus or any other analogous Writ, Order or Direction thereby directing the respondent herein/DDA to restore and handover the possession of the premises in question to the petitioners



herein; and

c. Issue a Writ of Mandamus or any other analogous Writ, Order or Direction thereby directing the respondent herein/DDA to restore/re-construct the illegally demolished structures of the petitioners at the premises in question, existing as on 02.03.2023; and/or alternatively

Issue a Writ of Mandamus or any other analogous Writ, Order or Direction thereby directing the respondent herein/DDA to adequately compensate the petitioners herein commensurate to the inconceivable loss & damages suffered by them apropos the respondent's ex-facie illegal, inhuman and inscrutable acts of dispossession and demolition carried out at the premises in question on 02.03.2023; and

d. Issue a Writ of Mandamus or any other analogous Writ, Order or Direction thereby directing the respondent herein/DDA to adequately compensate the petitioners herein for causing brazen infraction of their Fundamental, Constitutional & Human Rights as Guaranteed under Article 21 & 300-A of the Constitution viz. 'Right to Shelter' a concomitant of 'Right to Life' & Article 17 of the Universal Declaration of Human Rights, besides causing mental and physical agony, financial loss, and inconceivable hardships etc. apropos the respondent's ex-facie illegal, inhuman and reprehensible acts of dispossession and demolition precipitously carried out at the premises in question on 02.03.2023; ... "

2. Learned Standing Counsel for DDA takes a preliminary objection to the maintainability of this writ petition on the ground that Petitioners had taken recourse to the remedy of filing a suit titled *Sonwalia Ram (deceased) through his LR's. v. UOI and DDA*, bearing CS No. 96666/2016 *inter alia* seeking declaration of ownership and permanent injunction from dispossession against DDA pertaining to the same land for which this writ petition is filed. The suit was dismissed by the Trial Court vide judgment dated 21.02.2023, against which an appeal bearing no. RCA DJ No. 48/2023 was filed belatedly on 01.06.2023 and is pending consideration, the next date being 13.02.2026. This apart objection of delay and laches is also taken in the reply filed.

3. Mr. Siddiqui, learned counsel for the Petitioners submits that the present writ petition is maintainable and the judgment of the Trial Court



does not preclude the Petitioners to avail the writ remedy. It is urged that a specific issue was settled by the Trial Court whether the suit land is part of Khasra No. 89 of Village Alipur, Delhi and has been transferred to DDA by L&DO vide notification SO. No. 1810 dated 20.07.1974 and significantly, this issue was decided against DDA. Trial Court held that in the notification dated 20.07.1974 property is described as being at the back of INA colony and market of area 55.259 acre bounded on North by road, South by road, East by round about and West by Mehrauli Road. Khasra Number of the property is not mentioned in the description of the property and DDA has not led any evidence to prove that the property that has been transferred is part of Khasra No. 89 of Village Alipur. In light of this, the issue of the subject property having been transferred to DDA stands crystallized and by this writ petition, Petitioner prays for a direction to DDA to produce the authority of law under which demolition drive was conducted on the subject property as also for restoration of possession and restitution of the demolished structures. It is urged that these prayers are a fallout of the finding of the Trial Court and can be agitated in the writ petition.

4. Heard counsels for the parties with respect to the maintainability of this writ petition.

5. From a plain reading of the writ petition and the prayer clause, it is clear that Petitioners seek a direction to DDA to produce the authority under which it carried out demolition of constructed structures in Khasra Nos. 136 & 137 (Old No. 179) admeasuring 1 Bigha and 2 Biswas and 2 Bighas and 13 Biswas respectively as recorded in the revenue record of Village-Bibi Pur, New Delhi, now known as T-56/6, Peer Ki Mazar, DDA, Vikas Sadan, INA, New Delhi. Direction is also sought to DDA to restore the possession



of subject land and reconstruct and restitute the demolished structures. I have perused the relief sought in the plaint as also the judgment of the Trial Court delivered on 21.02.2023. Comparing the reliefs sought in the suit with the relief sought in the present writ petition, there is no doubt that they are more or less the same and overlap. From the judgment, it is evident that the Trial Court had settled issues from 1 to 11A on 30.07.2011, which are extracted hereunder for ease of reference:-

“(1) Whether the plaintiff is entitled to the relief of declaration as prayed? OPP.

(2) Whether the plaintiff is entitled to the decree of damages of Rs.50,000/- as prayed? OPP.

(3) Whether the plaintiff is entitled to the relief of injunction as prayed? OPP.

(4) Whether the suit is barred U/S 80 CPC? OPD1.

(5) Whether the plaintiff has no locus to file the present suit as per preliminary objection in WS of defendant no.1 and 2? OPD1 and 2.

(6) Whether the suit is barred by time? OPD1 and 2.

(7) Whether the suit is barred U/S 5(B) of Delhi Development Act? OPD

(8) Whether the suit is barred U/O 2 Rule 2 and Section 23 CPC? OPD2

(9) Whether the suit is barred U/S 10 CPC? OPD 2

(10) Whether the suit is barred under Provisions of Public Premises (Eviction of unauthorized occupants) Act, 1971? OPD2

(11) Whether the suit land is part of khasra no. 89 of village Alipur, Delhi and has been transferred to DDA by L&DO, Ministry of Urban Development vide notification S.O. No. 1810 dt. 20.07.1974 at Sr. no. 47? OPD2

(11A) Whether the suit land measuring 01 bigha 02 biswas is situated in khasra no. 136 (old no. 179) of Revenue Estate of village Bibi Pur? OPP”

6. Indisputably, Petitioners filed suit for declaration, permanent injunction and damages against DDA claiming that one Nawab Najaf Khan owned huge agricultural lands at Karnal and Village Bibi Pur in Delhi. Passage leading to the Mazar fell in Khasra No. 137 as per revenue record.



The Mazar was left neglected for a long time till the ancestors of the Petitioners particularly Shri Rai Singh settled on the land and started maintaining the Mazar including offering of prayers. In 1910, Rai Singh died survived by his only son Hema, who took charge of the religious duties. Hema married Smt. Saroopi and a son was born to them, namely, Sanwalia Ram in 1911. Hema continued living over the subject land while Sanwalia Ram along with his children and mother came to Delhi and settled over the subject land after the death of Hema in 1958. Petitioners have been in continuous possession of the land and were issued food ration card by Delhi Administration in 1970 bearing the address of the subject land. There is a further narrative in the plaint as to how the land was converted into a pucca structure and some disputes with third parties over its possession.

7. The Trial Court *inter alia* settled 12 issues which included issues whether Plaintiffs were entitled to relief of declaration and permanent injunction as to whether they had *locus* to file the suit. Reading of the judgment shows that the reliefs were pertaining to the land, which is subject matter of this writ petition and reliance was placed on the revenue record. After appreciation of the evidence and documents on record, the Trial Court observed that in order to claim relief of ownership by adverse possession, Plaintiff must disclose identity of true owner against whom the Plaintiff claims hostile title. Trial Court rendered a finding that Plaintiffs claimed that they had settled on the suit land and were looking after the Mazar, however, Plaintiffs no where brought out the name of true owner of the property and therefore, no declaration can be given of ownership in their favour by way of adverse possession. It was also held that Plaintiffs failed to prove the identification of the property as also ownership by adverse possession and



are thus not entitled to relief of declaration, damages and permanent injunction. Admittedly, an appeal has been filed against the judgment, which is pending before the Appellate Court. In light of this, the present writ petition claiming similar reliefs as sought in the suit cannot be entertained. Petitioners cannot be permitted to circumvent the judgment of the Trial Court and seek reliefs which were declined the by Trial Court indirectly. The argument that Issue No. 11 was decided against DDA, is of no avail to the Petitioners on the aspect of maintainability of this writ petition owing to the fact that the entire judgment is under consideration by the Appellate Court and it needs no gain saying that finding on Issue No. 11 will also be tested by the Competent Court .

8. For all the aforesaid reasons, writ petition is dismissed along with pending applications. It is, however, made clear that this order is no reflection on the merits of the case and the pending appeal shall be decided by the Appellate Court on its own merit and in accordance with law.

JYOTI SINGH, J

DECEMBER 3, 2025/YA