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

+ W.P.(C) 16165/2022 and CM APPL.50507/2022

SHIPRA SHARMA & ANR.

.....Petitioners

Through: Ms. Gurmeet Bindra, Adv.

versus

UNION OF INDIA AND OTHERS

.....Respondents

Through: Mr. Syed Abdul Haseeb, CGSC, R-1 and 2.

Mr. Varun Talwar and Ms. Sanya, Advs., Law Officers.

**CORAM:**

**HON'BLE MR. JUSTICE SACHIN DATTA**

**ORDER**

% **16.05.2025**

1. The present petition assails an order dated 15.11.2022, passed by the respondent no. 1/ Union of India and respondent no. 2 / Custodian of Enemy Properties for India, whereby property of the petitioners situated at Khata No.66, Khasra No.1130, situated in Village Baraula, Tehsil Dadri, District Gautam Budh Nagar, Uttar Pradesh has been declared as enemy property and sought to be vested in the Custodian of Enemy Property for India.
2. The background of the matter is that the petitioners are the joint owners of the land measuring 7415.138 sq. yards (6200 sq. meters) comprising Khasra No. 1130 in village Baaula, Tehsil Dadri, District Gautam Budh Nagar.
3. The said property was originally purchased by a company named M/s K.G.M. Exports Pvt. Ltd. from Shri Khajan, Shri Jagdish and Shri Het Ram *vide* a registered Sale Deed dated 26.03.1985, and was duly mutated in the company's name in the revenue records of Tehsil Dadri in 1990.
4. Subsequently, the property was purchased by Shri Karan Singh



Sharma, grandfather of the petitioners, *vide* two registered sale deeds dated 22.04.1995 and 10.05.1995. Subsequently, the said property was bequeathed to the petitioners by way of a Will dated 25.11.2004, and their names were mutated in the revenue records in 2007.

5. It is submitted that since then the petitioners have been in peaceful, and uninterrupted possession of the property until the sudden events of November 2022.

6. It is submitted that on 18.11.2022, officials from the office of the District Magistrate, Gautam Budh Nagar / respondent no. 3, arrived at the property and claimed to possess an Order dated 15.11.2022 vesting the land as “Enemy Property”. It is submitted that no prior notice, communication, or hearing was ever given to the petitioners.

7. Upon inquiry, the petitioners were directed to access details on the website of Bhulekh, Uttar Pradesh where it was discovered that the land had been recorded as Enemy Property.

8. Being aggrieved with the order dated 15.11.2022, the petitioners have now approached this Court.

9. During the course of hearing, it transpires that the said order was passed without giving a notice to the petitioners or affording an opportunity of hearing to the petitioners. Reliance has also been placed on ***Nafis-Ul-Afiin v. Union of India and Anr.*** 2025:DHC:619.

10. Relevant portion of ***Nafis-Ul-Afiin*** (supra) is reproduced as under –

*13. An elaborate procedure is described in Rule 3, by which firstly the Custodian is required to take assistance of the District Authority in identifying the property. Thereafter, the Custodian may direct the District Authority to carry out a physical inspection and verification. For this purpose, the Revenue and*



*Municipal records shall also be checked. Once the verification is carried out and the District Authority is, prima facie, satisfied that the property or interest therein is enemy property, the Custodian is required to issue a show cause notice in Form-I to the person claiming title to such property or to any other person or persons whom he considered to be interested in the enemy property. The said notice is also required to mention the grounds on which the property is sought to be declared as enemy property and is also required to specify the provisions of the Act under which the property is alleged to be the enemy property.*

*13.1 In terms of Rule 3(9) of the said Rules, the Custodian or his authorised representative is obliged to observe the principles of natural justice by giving sufficient opportunity to the noticee to present their case or to hear them or their representative. Rule 3(10) of the said Rules requires that the party to whom notice has been served in terms of Rule 3(6) of the Rules be called upon to show cause why the subject property should not be declared as an enemy property.*

*13.2 Rule 3(13) of the Rules set out that the authorised representative of the Custodian is required to prepare a detailed report of all cases identified as enemy property and to submit the same to the Custodian alongwith his recommendations.*

*13.3 Once the report under Rule 3(13) of the Rules is prepared, the Custodian is required to examine the same, and if necessary, he can also call for further investigation to be conducted. If upon such investigation and examination, the Custodian is satisfied that the property is enemy property, a certificate in Form II declaring the subject property to be enemy property alongwith authorisation order in Form III authorising the District Authority to take over the property on his behalf are to be issued.*

*14. As stated above, no show-cause notice as is requisite under Rule 3(7) of the Rules has been issued specifying the grounds and applicable provisions of the Act. In addition, concededly the detailed procedure as has been set out above under Rules 3 and 4 of the Rules has not been followed by the Respondents.*



15. A Coordinate Bench of this Court in the judgment in **Naima Khatoon** case had found that where the procedure under Rules 3 and 4 of the Rules had not been followed, and thus, the notice and the certificate could not be sustained. The relevant extract of the judgment in **Naima Khatoon** case is below:

“23. Admittedly, the aforesaid procedure has not been followed. Further, it is also not disputed that the order approving the decision to vest the property was taken by the Custodian on 26.08.2015, that is, after the Rules had come into force.

24. In view of the above, **the decision to declare the property as an enemy property and the consequent Certificate 09.09.2015 issued under Section 12 of the Act cannot be sustained. Consequently, the impugned notice to the tenants of the property, which are premised on the basis that the property is an enemy property, cannot be sustained.**”

[Emphasis supplied]

16. The facts in the present case also shows that no notice as was required to be issued under Rules 3 and 4 of the Rules was issued with respect to the subject property. Thus, the procedure as is envisaged under Rules 3 and 4 of the Rules was not followed at the time of issuing the Impugned Notice or the Impugned Certificate.

17. The Impugned Notice and the Impugned Certificate are accordingly set aside.

11. In the circumstances, considering that no prior intimation/notice was provided to the petitioners before passing the order dated 15.11.2022, the same is set aside, while granting liberty to the respondents to issue an appropriate Show Cause Notice (SCN) to the petitioners. All rights and contentions of the parties are left open.

**MAY 16, 2025/sv**

**SACHIN DATTA, J**