



2026:DHC:407-DB



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

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Judgment reserved on: 22.12.2025

Judgment pronounced on: 17.01.2026

Judgment uploaded on: 17.01.2026

+ LPA 114/2013, CM APPLs. 4428/2015, 7030/2015,
39768/2016

NEELAM ARYA

.....Appellant

Through: Mr. P.V. Kapur, Sr. Adv. with
Mr. N.S. Vasisht, Mr. M.P.
Bhargava, Mr. Aashu Tyagi,
Mr. Sidhant Kapur and Ms.
Kaveri Kapur, Advs.

versus

DIN MOHD (DECEASED) AND ORSRespondents

Through: Mr. Raman Kapur, Sr. Adv.
with Mr. Manish Kumar, Mr.
Divyansh Singh and Ms.
Aparajita Jha, Advs. for R-1, 2
and 4.
Mr. Dev Hans Kasana, Adv. for
R-3.
Mr. Sanjay Kumar Pathak,
Standing Counsel with Ms KK
Kiran Pathak, Mr. Sunil Kumar
Jha, Mr. M.S. Akhtar, Mr.
Divakar Kapil, Advs. for R-5 to
7.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE TEJAS KARIA

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J U D G M E N T

ANIL KSHETARPAL, J.

INTRODUCTION:

1. The present Appeal filed under Clause 10 of the Letters Patent read with Section 10 of the Delhi High Court Act, 1966, challenges the validity and legality of the orders dated 26.02.2009, 22.01.2010, and 07.01.2013 [hereinafter referred to as 'Impugned Orders'] passed by the learned Single Judge in W.P.(C) No. 2385/1982 and subsequent Review Petitions No. 198/2011 and 436/2011. By way of the Impugned Orders, the learned Single Judge set aside orders passed by the quasi-judicial authorities under the Administration of Evacuee Property Act, 1950, affecting the rights of the Appellant over the subject land. After hearing learned counsels representing the parties at length and perusal of record, this bench is of the considered view that the matter is required to be remitted for re- examination before the Learned Single Judge on various reasons recorded hereinafter.

FACTUAL BACKGROUND:

2. The genesis of this dispute dates to the post-partition era and involves land situated in Village Chandan Hola, Delhi. The procedural history is complex, spanning over seven decades of administrative and judicial proceedings.

3. On June 13, 1949, the Administration of Evacuee Property (Chief Commissioners Provinces) Ordinance XII of 1949 came into force. Pursuant to Section 6(1) of this Ordinance, a Notification dated

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June 16, 1949, was published in the Official Gazette on July 6, 1949. This Notification resulted in the automatic vesting of several properties in Village Chandan Hola in the Custodian, except for those belonging to persons specifically named in the Schedule. Notably, the ancestor of the Respondents, Sh. Safed Khan son of Ghisa, was not mentioned in this Schedule. A different individual, Sh. Safed Khan son of Bhusan, appeared at Serial No. 29, leading to significant identity confusion in subsequent litigation.

4. The legal framework evolved through Ordinance XXVII of 1949 and finally the Administration of Evacuee Property Act, 1950. On July 21, 1961, a Competent Officer declared that since no claims were made regarding the non-evacuee share within the prescribed time, the property stood vested entirely in the Custodian. This order remained unchallenged for decades and attained finality.

5. On February 23, 1981, the Central Government allotted the subject land, comprising **Khasra Nos. 93/1 (2-08), 95 (4-10), 97 (0-17), and 71/1 (0-19)** (totalling 8 Bighas 14 Biswa), to one Sh. Gurbax Singh under the Displaced Persons (Compensation & Rehabilitation) Act, 1954. This allotment was made in lieu of properties he had left behind in Pakistan.

6. The Respondents (heirs of Safed Khan) claimed they only learned of this vesting on March 20, 1981, upon receiving an eviction notice. On June 27, 1981, approximately 32 years after the initial vesting, they filed a Revision Petition under Section 27 of the 1950 Act. During these proceedings, on July 14, 1981, an entry in the



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Chowkidar's Register was corrected to read "Safed Khan son of Ghisa" instead of "Phanda son of Ghisa". On June 29, 1982, the Custodian General dismissed the Revision, rendering a finding of fact that Safed Khan, was indeed an evacuee on the ground that the predecessor in interest of the Respondents was a different person than Safed Khan, whose name was recorded in the revenue record.

7. The Respondents filed W.P.(C) No. 2385/1982 challenging the Custodian's order. During the long pendency of this Writ Petition, Sh. Gurbax Singh passed away on May 8, 1992, and the property was inherited by his son, Sh. Surjit Singh. After Sh. Surjit Singh passed away, the property was mutated in the names of his legal heirs. On December 15, 1992, the Appellant, Smt. Neelam Arya, purchased the property from the heirs of Sh. Surjit Singh (son of Sh. Gurbax Singh) *via* four registered sale deeds. The property was mutated in her name on March 5, 1993.

8. Between 1995 and 1996, the Appellant obtained MCD sanction and constructed a farmhouse on the land, obtaining a completion certificate on January 4, 1996. Although the Respondents were aware of the Appellant's possession and the registered sale deeds, they moved an application (CM 4673/96) on January 10, 1996, to implead the heirs of Sh. Surjit Singh, but deliberately failed to implead the Appellant.

9. On February 26, 2009, the learned Single Judge allowed the Writ Petition, primarily on the grounds that no notice under Section 7 of the 1950 Act had been issued and the property was never legally



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"separated" as a composite property. The Appellant only discovered her name had been removed from revenue records on July 29, 2010. She filed LPA, which was disposed of with liberty to file a review. Subsequent review petitions filed by the Appellant (RP 198/2011) and the Deputy Custodian (RP 436/2011) were dismissed on January 7, 2013, leading to the present Appeal.

CONTENTIONS OF THE APPELLANT:

10. Learned senior counsel for the Appellant has contended that the impugned orders were passed without granting her an opportunity of being heard, despite her being a registered owner of the property and the party most likely to be affected by the writ proceedings. It was further argued that the Respondent Nos.1 to 4 (Writ Petitioners) suppressed material facts, including the Appellant's ownership and the extensive construction on the land, thereby misleading the Court.

11. The Appellant highlighted that the subject land had automatically vested in the Custodian in 1949 under the Administration of Evacuee Property Ordinance. The Respondents filed a Revision Petition only in 1981, after a delay of 32 years, which was erroneously overlooked by the learned Single Judge. Furthermore, a fundamental dispute exists regarding the identity of "Safed Khan"- the predecessor-in-interest of the Respondents as his parentage and death certificate details do not align with the historical records of the excluded owners.



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CONTENTIONS OF THE RESPONDENTS:

12. Learned senior counsel for the Respondent Nos.1, 2 and 4 has contended that the subject land never validly vested as evacuee property, as it stood excluded by Notification dated 16.06.1949 under the Administration of Evacuee Property Ordinance, 1949. It was contended that the authorities wrongly assumed automatic vesting in 1949 without examining the exclusion notification, rendering subsequent allotment and transfers void *ab initio*, and that such a jurisdictional error could be corrected in writ proceedings notwithstanding delay.

13. It was further submitted that the Revision under Section 27 of the 1950 Act, though filed in 1981, was maintainable as the statute prescribes no rigid limitation for correcting void orders. On identity, the Respondents argued that the distinction between Sh. Safed Khan, son of Ghisa, and Sh. Safed Khan, son of Bhosan, was technical and that the learned Single Judge rightly treated the predecessor as the same person, whose land was excluded under the 1949 Notification.

14. As regards the Appellant's claim, it was contended that no title could pass from the heirs of Sh. Gurbax Singh, mutation being fiscal and municipal permissions incapable of curing a void allotment. The Respondents submitted that the Appellant, as a derivative purchaser, could not claim equities higher than her vendor and that the learned Single Judge correctly exercised writ jurisdiction, warranting no interference in appeal.



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ANALYSIS AND FINDINGS:

15. After having heard learned senior counsel for the parties at length and perusing the record, this Court is of the considered view that the matter requires fresh adjudication at the hands of Learned Single Judge for the following reasons:

- i. The Impugned Order originally passed by the learned Single Judge in 2009 was without granting an opportunity of hearing to the Appellant, thus violating the principles of natural justice. The Appellant had purchased the property by registered Sale Deeds from the legal heirs of an allottee of the Union of India and was a necessary party whose interests were directly at stake.
- ii. In exercise of the power of judicial review, the learned Single Judge proceeded to quash the order passed by the Deputy Custodian General without examining the critical provisions of the Administration of Evacuee Property (Chief Commissioners' Province) Ordinance No. XII of 1949 and the subsequent Notification dated 16.06.1949. The Court, by a legal oversight, failed to analyse the various steps taken under these ordinances in the context of Sections 8(2) and 8(2VIII) of the Administration of Evacuee Property Act, 1950.
- iii. As per the Government records, the vesting of the subject land took place in the year 1949. However, the private Respondents (Writ Petitioners) before Learned Single Bench, causing a significant delay, filed a Revision Petition under Section 27 of the 1950 Act only on 27.06.1981- a staggering period of 32 years after the date of vesting.

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iv. The Respondents (Writ Petitioners) claimed their predecessor, Sh. Safed Khan, son of Ghisa (died 26.11.1955), owned the land. Conversely, historical notifications show that land (as per revenue record) belonging to Sh. Safed Khan and Sh. Phool Khan, sons of Sh. Bhosan, was excluded from evacuee status in 1949. The Deputy Custodian General had specifically held that the Respondents' predecessor was not the same person as the Safed Khan whose land was excluded. The learned Single Judge overlooked this factual discrepancy in parentage and assumed them to be the same individual. Such an identity dispute alone raises suspicion over the genuineness of the claim of the Respondents (Writ Petitioners).

v. The Respondents (Writ Petitioners) did not challenge the correctness of the automatic vesting under the 1949 Ordinance within the prescribed period, either through the present Writ Petition or any other proceedings, thus making it difficult to question its finality.

vi. There exists a significant discrepancy regarding the death of Sh. Safed Khan. A corrected death certificate from 1981 indicates he died in 1952, while the Respondents (Writ Petitioners) maintain he died in 1955. These highly disputed questions of fact were decided by the learned Single Judge in summary proceedings without adequate inquiry.

vii. The Respondents (Writ Petitioners) failed to apprise the Court of material developments during the pendency of the petition, specifically the sale to the Appellant in 1992, the subsequent mutation in 1993, and the MCD-sanctioned construction completed in 1996.



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viii. The learned Single Judge proceeded to set aside orders of a Quasi-judicial Authority without giving an opportunity of hearing to the Appellant rendering her remediless despite her status as a purchaser of the subject property through registered sale deed from government's allottee of the land.

16. The nature of litigation before this Court requires a holistic and pragmatic view, while duly regarding the respective rights of all the private parties. On one hand, there is no dispute regarding entitlement of the rights of the Appellant, who has derived her title from Sh. Gurbax Singh, whose entitlement of the allotment of the land is not in dispute. On the other hand, the rights of the Respondents (Writ Petitioners) warrant adjudication on merits too. In such circumstances, if the Court ultimately believes that the Respondents rightfully hold some stake in the disputed property, the transfer of alternative land to the Appellant or the private Respondents (Writ Petitioners) is required to be considered, particularly when the Appellant had purchased the property from an individual, whose entitlement to the allotment of the evacuee land is not in dispute. In such circumstances, the equities can be balanced by the Court, while issuing suitable directions.

CONCLUSION:

17. In light of the foregoing, this Court is of the opinion that the learned Single Judge erred in dismissing the Review Petitions and deciding complex factual disputes without a full appreciation of the evidence and the participation of the affected party. The findings on the identity of the evacuee, the timing of vesting, and the non-



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disclosure of subsequent titles are central to the resolution of this matter.

18. Accordingly, the present Appeal is allowed. The Impugned Orders are hereby set aside. The matter is remitted to the learned Single Judge for deciding W.P.(C) No. 2385/1982 afresh on merits without being influenced by the observations made hereinabove, after impleading the Appellant as a Respondent and granting an opportunity to file her response and hearing in the proceedings.

19. The parties, through their respective counsel, are directed to appear before the learned Single Judge (Roster Bench) on 05.02.2026.

20. The present Appeal, along with the pending applications, stands disposed of.

ANIL KSHETARPAL, J.

TEJAS KARIA, J.

JANUARY 17, 2026

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