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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 08th September, 2025

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W.P.(C) 1496/2017 & CM APPL. 6826/2017

GANDHI KUSTH KRISHI SANSTHA

.....Petitioner

Through: Mr. Vijay Kinger, Advocate with Mr.
Krishan Kumar, Mr. Hemant Kumar
and Ms. Roopa Nagpal, Advocates
Mob: 9868423615
Email: robinpawar0@gmail.com

versus

EAST DELHI MUNICIPAL CORPORATION & ORS.

.....Respondents

Through: Mr. Sanjay Vashishtha, SC for MCD
with Mr. Siddhartha Goswami, Mr.
Aditya Sachdeva and Ms. Getanjali
Reddy, Advocates
Mob: 9643579702
Email: adityasachdeva21@gmail.com
Ms. Kanika Agnihotri, ASC with Ms.
Suruchi Khandelwal, Advocates for
DDA
Mob: 9810980027
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Mr. Shubham, Advocate for Mr.
Abhinav Sharma, Panel Counsel,
GNCTD

CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J (ORAL):**

1. The present writ petition has been filed seeking to quash the order dated 10th July, 2015, passed by respondent no. 2, i.e., Government of NCT of Delhi ("GNCTD"). There is a further prayer for restraining the respondent no. 1, i.e., Municipal Corporation of Delhi ("MCD") from taking possession of the agricultural land and compound in *Leprosy*



Complex/Tahirpur Complex, Delhi.

2. Learned counsel appearing for the petitioner relies upon the document filed by the petitioner with regard to the *Jamabandi* of village *Jhilmil, Tahirpur Tehsil and District, Delhi*. By referring to the aforesaid revenue record, learned counsel appearing for the petitioner submits that the land in question has been handed over to the petitioner, as a tenant. It is submitted that the petitioner has been cultivating crops, and are in settled possession of the land in question. Thus, it is submitted that the MCD be restrained from taking possession of the agricultural land and compound in the land in question, without due process of law.

3. Learned counsel appearing for the petitioner further relies upon a Comprehensive Policy on Tahirpur Complex, issued by the Department of Social Welfare, GNCTD, to submit that a decision had been taken by the GNCTD to allow the healthy descendants of Leprosy affected patients to stay in the land in question for one generation, and they were also held to be eligible for relocation as per the existing Rehabilitation Policy of GNCTD.

4. *Per contra*, learned counsel appearing for respondent no. 1-MCD submits that the petitioner has raised disputed questions of facts, which cannot be decided in the present proceedings. He further submits that the land in question is a government land and does not belong to the petitioner. He submits that the petitioner has wrongly claimed ownership of the land in question and draws the attention of this Court to the averments made by the petitioner in the writ petition. He further submits that the Comprehensive Policy, as relied upon by the petitioners for their rehabilitation, was only a tentative policy, which has never been finalized or implemented.

5. In response, learned counsel appearing for the petitioner submits that an alternate place for rehabilitation be granted to the petitioner society, since



they have been in possession of the land in question for a long time.

6. Having heard learned counsels for the parties, this Court notes that as per the document on record, the MCD has been running a Leprosy Home at *Tahirpur, Shahdara*, and providing basic medical facilities and dry ration, etc. to the inmates therein. Further, the document shows that the MCD has handed over possession of the vacant land in question measuring 30 acres, together with the entire complex, spread over 14 acres consisting of the building of Leprosy Home/Hospital/Staff quarters at *Village Tahirpur* to the Department of Social Welfare, GNCTD. Further, decision was also taken to transfer the whole *Leprosy Home Complex, Tahirpur, Shahdara*, to the Department of Social Welfare, GNCTD, to carry out all medical, social and rehabilitation activities under one administrative control. The document pertaining to the same, is reproduced as under:

Item No. 135 :- Transfer of remaining part of Leprosy Home, Tahirpur, Shahdara to Directorate of Social Welfare, Govt. of N.C.T. of Delhi.

(i) Commissioner's letter No. F. 33/Health/537/C&C dated 23-7-98.

M.C.D. is running a Leprosy Home at Tahirpur, Shahdara and providing basic medical facilities and dry ration etc. to the inmates of this home. In the year 1983, a meeting of Advisory Board regarding Eradication of Leprosy and Rehabilitation of Leprosy patients was held in the office of Lt. Governor on 27-10-1983 and it was decided as under :-

"As for the health component, Lt. Governor observed that the existing facilities as provided by the MCD were inadequate and the funds provided by the Ministry of Health for augmenting the facilities by establishing full-fledged hospitals remained unimplemented. It was, however, decided by the Board that the scheme should now be implemented by Directorate of Health Services technically and administratively. It would be under the control of the Directorate of Social Welfare, Delhi Administration, Delhi".

Since, Leprosy is a state level function and in all states Leprosy Eradication Programme are being implemented by the State Govt., the same practice should also be followed in Delhi. Most of the components sections in the Leprosy Home Complex at Tahirpur, Shahdara are being run and maintained by the Directorate of Social Welfare Deptt., Delhi Administration, Delhi. At present, MCD is only looking after 55 inmates residing in the Leprosy Home. In 1992, the then Commissioner wrote to Delhi Govt. for taking over all the activities of Leprosy Home, including Leprosy Home and 20 bedded hospital, but till date no action has been taken in this regard by them.

Land & Estate Deptt. of MCD has already handed over possession of vacant land measuring 30 acres together with the entire complex spread over 14 acres consisting of building of Leprosy Home/Hospital/Staff quarters at Village Tahirpur to Director, Social Welfare Deptt., Delhi Administration Delhi in the light of decision taken by the Lt. Governor's meeting held on 6-1-83 (Annexure 'A' & 'B').

The Audit Deptt. of MCD has objected to MCD incurring day to day expenditure on this Leprosy Home Complex when its land has already been handed over to Director, Social Welfare Deptt. Delhi Administration, Delhi. The Audit Deptt. has also observed that the amount spent by MCD be re-imbursed by the Delhi Administration for the period w.e.f. 2-2-83 till date to MCD.

In the light of the position stated above the matter may be placed before the Corporation routed through Medical Relief & Public Health Committee and Standing Committee, for transfer of the whole Leprosy Home Complex, Tahirpur, Shahdara to Directorate of Social Welfare Deptt., Govt. of NCT of Delhi to carry out all medical social and rehabilitation activities under one administrative control.

ANNEXURE 'A'

MUNICIPAL CORPORATION OF DELHI
LANDS & ESTATE DEPTT.
POSSESSION CERTIFICATE

The possession of vacant land measuring 30 acres together with entire complex spread over 14 acres consisting of buildings of Leprosy Home/Hospital/Staff quarters situated at Village Tahirpur, Shahdara is hereby transferred and physical possession handed over to the Directorate of Social Welfare, Delhi Admn. by the M.C.D. as per decision taken by the L.G. in the meeting held on 6-1-1983 at Raj Niwas.

(45)



30/11
88/11
1-18
340

A plan showing the existing building of the said Leprosy Home etc. and the vacant land is annexed herewith for record.

<u>Taken over</u>	<u>Handed over</u>
<u>Sd/-</u> S.N. Misra Suprintendent, Planning-cum-Production, Centre for Lepers, Directorate of Social Welfare, Delhi Administration, Delhi.	<u>Sd/-</u> 1. H.C. Tiwari Draftman Lands & Estate Deptt. M.C.D. 2. Allah Mehra Patwari Lands & Estate Deptt. M.C.D.

ANNEXURE 'B'

Extract from the Minutes of Meeting held under the
Chairmanship of Lt. Governor, Delhi on 6-1-83 at 5-00 P.M.

(v) Lepers Colony :

The Director of Social Welfare stated that they have taken over 60 acres of land at this complex. The land is Old Nazul Land. The MCD has asked for payment of Rs. 1.80 crores for handing over this land to Social Welfare Department. The Lt. Government mentioned that this is a Government land no payment need do made to M.C.D. The Lt. Governor also decided to form a task force of Sh. M.K. Yadav, D.C. (MCD), Sh. Lakshwar Prasad, Secy. (Judicial), Sh. Rambir Singh, Director (L&M), DDA and Smt. Kiran Dhingra, Director, Social Welfare to arrange for taking over of land and other institutions in the complex as per the orders of the Govt.

Sh. Yadav, D.C. (M.C.D.) informed that MCD is already attending to the point mentioned by the Lt. Governor during his last inspection about cleaning of the area, sanitation of latrines, posting of doctors to the leper colony. The Lt. Governor desired that the area as well as the staff quarters in the hospital should also be cleaned up. He mentioned that :—

(i) The hospital will remain with MCD.

(ii) The Advisory Board will be set up for management of the complex. Each unit should be put up under the charge of a Manager.

(iii) The lepers from another states who have come after 1-1-81 should be sent back, as the other states have also provided leper homes, unless there are special humanitarian ground in a particular case. He desired that a fresh survey should be immediately carried out to assess the number of lepers belonging to other states who have come after 1-1-81.

(iv) Resolution No. 18 dated 10-9-98 of MR & PH Committee.

Resolved that it be recommended to the Corporation through the Standing Committee that as proposed by the Commissioner in his letter No. F. 33/Health/537/C&C dated 23-7-98, transfer of whole Leprosy Home Complex, Tahirpur, Shabdara to Director of Social Welfare Deptt., Govt. of N.C.T. of Delhi to carry out all medical, social and rehabilitation control, as detailed mentioned in the letter aforesaid, be approved.

(46)

7. This Court notes that earlier the petitioner had filed a writ petition being W.P.(C) 3060/2013, which was disposed of *vide* order dated 18th February, 2015, in the following manner:



The petitioner claims to be a society constituted by various families whose members are suffering from leprosy. It is the petitioner's case that these families were allotted an area of approximately 16 acres along with a pond in the year 1957 for their livelihood. It is asserted that the constituent members of the petitioner society have been in settled possession of this property since 1957.

The learned counsel for the petitioner has also drawn the attention of this Court to a comprehensive policy of respondent no.2 with regard to Tahirpur complex whereby it has been proposed that 194 legal occupants as per survey report of Deputy Commissioner (NE) would be allowed to stay.

It is not clear whether the members of the petitioner are considered as legal occupants. Further, the petitioner has been unable to show any document on the basis of which the allotment of the land in question is claimed.

In the given circumstances, the learned counsel appearing for the petitioner states that he would be satisfied if the present petition is considered as a representation by the respondents and an appropriate decision is taken thereon.

It is, accordingly, directed that the present petition be considered as a representation by respondent no.2. The Deputy Director, Social Welfare Department shall consider this representation and pass a speaking order within a period of eight weeks from today and if necessary, he may call upon the concerned officers of EDMC and DDA to assist him in arriving at an informed decision.

The writ petition is disposed of with the aforesaid directions.

Dasti.

8. Pursuant to the aforesaid order, a speaking order dated 10th July, 2015, has been passed by the Department of Social Welfare, GNCTD, which reads as under:



TRUE COPY

ANNEXURE-P-9
52High Court Matter
Most UrgentDepartment of Social Welfare
Govt. of NCT of Delhi
GLNS Complex, Delhi Gate, Delhi- 02

Sub.: In the matter of Gandhi Kushth Krishi Sanstha Vs. East Delhi
Municipal Corporation heard in the Hon'ble High Court of Delhi vide
WP(C) 3060/2013 and CM No.5795/ 2013.

This is the matter of Gandhi Kushth Krishi Sanstha Vs. East Delhi
Municipal Corporation which was being heard in the Hon'ble High Court of Delhi
vide WP(C) 3060/2013 and CM No. 5795/2013. Hon'ble Justice Vibhu Bakhru
was pleased to pass an order in this matter on dated 8.2.2015 in which while
considering the claim of the petitioner, directed that the present petition be
considered as a representation by respondent no.2. He further directed that the
Dy. Director, Social Welfare Department shall consider this representation and
pass speaking order within a period of 8 weeks from today and if necessary he
may call upon the concerned officer of EDMC and DDA to assist him in arriving
at an informed decision.

The said order was made available to this office by the Superintendent,
RCL, Tahirpur on 22nd May, 2015 after downloading the same from the internet.
Certified copy of the order was not given to this office. Subsequently, in order to
comply with the directions of the Hon'ble High Court of Delhi, efforts were made
to clarify the issues with regard to the contention of the petitioner society i.e.
Gandhi Kushth Krishi Sanstha.

The claim of the petitioner is that the said society consisting of various
families whose members are suffering from leprosy were allotted an area of
approximately 16 acres along with a pond in the year 1957 and that they were in
settled possession of this land but the Petitioner Society has failed to produce
any documentary evidence.

In order to clarify the issue, documents / maps / record of minutes of
meeting etc. were sought from the Deputy Director (Estate) Department of
Social Welfare as well as the Administrator, Tahirpur / District Social Welfare
Officer(North East). Copy of two small maps, one of PWD indicating the location
of various land sites in Tahirpur Complex and one site map signed by Kanoongo,
patwari of DC office and patwari of DDA were made available by Estate Branch
of Social Welfare Department, which were reportedly obtained from the O/o



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Administrator, Tahirpur/DSWO (NE) (Copy of maps enclosed at Annex-1). The report of the Committee of the Officers headed by the Deputy Commissioner, North East 2010 and minutes of meeting held by the SDM Seema Puri dated 25/08/2011 were referred (copies enclosed as Annex-2 & 3).

In the aforesaid report of the Committee of the Officers headed by the Deputy Commissioner, North East 2010, it is mentioned that Gandhi Kusthth Krishi Sanstha is under MCD control and consist of 16.5 acres of agricultural land at page-6. Further the report also mentions that no society or panchayat has been allotted land by any Government Agency or DDA within Tahirpur Complex at page-11. The Report further mentions that in a meeting held with the stake holders on 09/07/2010, the Committee asked about the allotment of land to their societies by the DDA or any other government agency but none of the society representatives could produce any document/evidence regarding allotment of land to them and the same was also confirmed during the survey of houses conducted by the office of the DC (NE) (see page 22 of the report).

It is also observed that in the list of societies given in the said report at page 12 and page-13 mentioning legal and illegal occupancy does not mention the name of Gandhi Kusthth Krishi Sanstha. Legal occupancy of 194 tenaments only is mentioned which are found against the following societies namely Ekta Vihar, Ganga Jamuna, Hariom Kusth Ashram, Jai Hind Kusth Ashram, Manav Seva Samiti, Vikas-B, Saraswati Kusth Ashram, Sarvodaya-B Kusthth Ashram, Sewa Samiti-B and Shanti Kusthth Ashram.

The minutes of the meeting dated 25th August, 2011 convened by SDM, Seemapuri to decide on the title / ownership of land in Tahirpur complex, MCD officers informed that as per their records, MCD has possession of 27.99 acres of land out of which 16.47 acres of land is designated as agricultural/pond.

A meeting was also called to arrive at an informed decision on this issue, chaired by the Director, Social Welfare on 07th July, 2015. The meeting was attended by the representative from DDA, MCD, Estate Branch of Social Welfare Department and Social Defence Branch as well as Administrator, Tahirpur Complex / DSWO (NE). In this meeting, the Administrator Tahirpur Complex showed a map of PWD indicating the area of various sites in Tahirpur Complex which also showed the area of around 16 acres as belonging to MCD. The representative from MCD stated that the area in question i.e. agricultural land and pond of around 16 acres in Tahirpur Complex is of MCD. However, he stated that the relevant records would be available at the MCD Hospital, in Tahirpur Complex.



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Accordingly, a visit was made on the same day at 04.00 pm to the site of the agricultural land and pond. The representatives of the petitioner society namely Sh. Bhandari and others were present at the site. No papers or documents were made available by the representatives of the Petitioner Society, though Sh. R.B. Bhandari of the said society claimed that their families were living and cultivating in this area even before the MCD came here.

Dr. Ramesh Kumar, In-charge of MCD Hospital in Tahirpur Complex as well as Sh. Nazrul Islam, Executive Engineer M-1 Shahdara North EDMC were present. Administrator, Tahirpur Complex / DSWO (NE) was also present. Dr. Ramesh Kumar stated that this portion of land measuring around 16 acres was allowed to be used by around 50 leprosy affected persons for their rehabilitation. The land consists of agricultural land and pond where in cultivation and fishing is being done. The leprosy affected persons were provided one room tenements in the MCD barracks to stay. The Doctor further informed that earlier in-house treatment of leprosy effected patient was the norm and hence such persons were staying in the barracks but now as per present recommendations of WHO, OPD treatment is given to leprosy affected persons. However, those who were allotted accommodation in the barracks previously continued to stay along with their families. At present, 21 persons who are leprosy affected are staying in the barracks and provided with dry ration, vegetables, milk, winter/summer clothing, utensils etc. and are also provided medical services. It is the families of these persons who are now claiming possession of the said 16 acres of agricultural land and pond.

Dr. Kumar also provided the list of 21 inmates of the leprosy home, Tahirpur i.e. those persons living in MCD barracks in Tahirpur (Copy enclosed as annexure -4). The area of the barracks is also under the control of MCD, which undertakes repair and maintenance work.

Certain papers were also made available by the MCD which indicate the area under the control of MCD. Copy enclosed as Annexure-5(Colly). Details are as under:-

1. Joint Survey Report of Village Jhilmil, Tahirpur dated 23.1.2007 which indicates agricultural land and pond of 16.479 acres in MCD possession, copy attested by Sh. Ramphal, Survey Officer, Land Estate, EDMC.
2. Site map of leprosy colony, village Tahirpur indicating agricultural land and pond of 16.479 acres in MCD possession copy attested by Sh. Ramphal, Survey Officer, Land Estate, EDMC.



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3. Measurement sheet of the area in possession of MCD in Tahirpur complex copy attested by Sh. Ramphal, Survey Officer, Land Estate, EDMC.

Thus, the area in question of around 16 acres consisting of agricultural land and pond is belonging to MCD. The Department of Social Welfare as such has no role to play in the matter as this agricultural land and pond are of MCD. Hence, Social Welfare Department has no locus standi to pass a speaking order with respect to the land in question. However, respecting the directions of the Hon'ble High Court of Delhi, the matter has been enquired into in-depth and above conclusions have been arrived at. Further, it is for the MCD to decide on the matter of providing allotment of land to the petitioner society or otherwise.

Encl.: As Above.

[Signature]
(P.R. Meena)
Director (Social Welfare)

F. No. 4A (805)/DSW/LC/HC/2014 8425-8435

Dated 10 JUL 2015
5102 706 01

Copy to:

1. Commissioner East Delhi Municipal Corporation, 419, Udyog Sadan, Patpar Ganj, Delhi.
2. Vice Chairman, DDA, Block-A, Vikas Sadan, INA, New Delhi-23.
3. Nodal Officer/ SE-I, Shahdara North Zone, East Delhi Municipal Corporation, Zonal Office Building, Keshav Chowk, Near Sham Lal College, GT Road, Shahdara, Delhi.
4. Nodal Officer/ Supdt. Engineer, CC-12, DDA Office Complex, Ashok, Vihar, Phase-I, Near Railway Crossing, New Delhi.
5. Dy. Director (Estate), Deptt. of Social Welfare, GNCTD, GLNS Complex, Delhi Gate, New Delhi- 02.
6. Dy. Director (Litigation), Deptt. of Social Welfare, GNCTD, GLNS Complex, Delhi Gate, New Delhi- 02.
7. Dy. Director (Social Defence), Deptt. of Social Welfare, GNCTD, GLNS Complex, Delhi Gate, New Delhi- 02.
8. Administrator TLC/ DSWO (NE), Deptt. of Social Welfare, GNCTD, Sanskar Ashram Building, Dilshad Garden, Delhi.
9. Superintendent, RCL, Deptt. of Social Welfare, GNCTD, Tahirpur Complex, Delhi.
10. President of Gandhi Krishi Kusth Sanshta, Tahirpur Complex, Delhi through Advocate Sh. Javed Ahmad 214, Lawyers Chamber, Delhi High Court, New Delhi- 110003

[Signature]
(P.R. Meena)
Director (Social Welfare)

True copy
[Signature]

9. By perusing the aforesaid order, it clearly comes to the fore that 21 Leprosy affected persons are staying in the barracks of the MCD Hospital in *Tahirpur Complex*. The said persons are provided with dry ration, vegetables and other facilities, including, medical services. The said area of



the barracks is under the control of the MCD. A joint survey was conducted, on the basis of which it was indicated that the land in question, which is the subject matter of the present writ petition, is in the possession of the MCD. Thus, the Department of Social Welfare, GNCTD, has come to a categorical conclusion and finding that the area in question, measuring 16 acres, consisting of agricultural land and pond, belongs to the MCD.

10. This Court further takes note of the counter affidavit filed on behalf of respondent no. 2, i.e., Department of Social Welfare, GNCTD, wherein, it is stated as follows:

“xxx xxx xxx

7. That without prejudice to the above, it is submitted that a meeting was called on 07.07.2015 by the Director, Department of Social Welfare in compliance of the direction of this Hon'ble Court vide order dated 18.02.2015 in W.P.(C) No.3060/2016. That the said meeting was attended to by the representative from DDA, EDMC, Estate Branch and Social Defence Branch of

the Social Welfare Department as well as the administrators/district social welfare officers (NE), Tahirpur Complex, Delhi. That a site visit was also carried out, wherein the representatives of the petitioner was also present who however, failed to produce any documentation/certifying ownership of the land. Copy of the meeting notice dated 02.07.2015 and the attendance sheet dated 07.07.2015 is annexed herewith and marked as **ANNEXURE-A**. That consequently, the GNCTD filed a report dated 10.07.2015 pertaining to the Tahirpur Leprosy Complex wherein various observations were made and it was concluded that *“it is for the MCD to decide on the matter of providing allotment of land to the petitioner's society or otherwise.”*

8. Copy of the report of the then Director (Social Welfare) pertaining to the Gandhi Kusth Krishi Sanstha, Tahirpur Leprosy Complex is marked and annexed hereto as **ANNEXURE-B**.

9. That it is further submitted that a contempt petition bearing Cont. Case (C) No.342/2015 titled “Gandhi Kusth Krishi Sanstha vs. P.R. Meena” was filed by the petitioner, alleging non-compliance of the order dated 18.02.2015. That on the submission of the report dated 10.07.2015, the said contempt petition was withdrawn by the petitioner on 13.07.2015. Copy of the order dated 13.07.2015 in Cont. Cas (C) No.342/2015 is annexed herewith and marked as **ANNEXURE-C**.

10. That it is submitted that all matters pertaining to Tahirpur Leprosy Complex are being dealt by this Hon'ble Court in CCP No.224/2004 titled “Kusth Ashadeep Federation vs. Ajay K. Paitandy” pertaining to unauthorized occupation, illegal construction and encroachment in Tahirpur Leprosy Complex.



xxx xxx xxx”

11. Thus, it is manifest that the petitioner has failed to produce any documentation certifying ownership of the land in question, as claimed by them.

12. Further, the respondent no. 3-Delhi Development Authority (“DDA”) in its Status Report dated 11th July, 2017, has stated as follows:

“xxx xxx xxx

5. That the respondent-Delhi Development Authority further submits that Leprosy Complex Tahirpur exists on the land being Khasra No. 1 min. in the village Jhilmil Tahirpur. The land of Leprosy Complex Tahirpur stands transferred to MCD by CPWD Division 3 in the year 1955-56.

6. That the respondent-authority submits that as per jamabandi for the year 1967-68, the land of khasra No. 1 min is Government land (Sarkar Daulat Madar). The details of which is given as under:

At Oath Commission
Sl. No. HC-88/2016
JISS MANNU SINGH
vs. Delhi High Court
Period 14-09-2016
to 13-09-2018
High Court, New Delhi

	KHATA NO.	KHASRA NO.	AREA	REMARKS
1	5	1 min.	(0-9)	For Social Welfare Department
2	11	1 min.	(17-15)	For CPWD
3	13	1 min.	(18-14)	CPWD for leprosy children home
4	25	1min.	(4-16)	For leprosy children home
5	28	1 min.	(244-16)	MCD through CPWD for leprosy colony

7. That the answering respondent further submits that they have already provided the relevant office records to the Social Welfare Department, Govt. of NCT of Delhi and SDM (Seemapuri) on 16.08.2011 vide handing over/taking over of the relevant record.

xxx xxx xxx”

13. Thus, it is evident that as per the revenue record, the land in question is meant for Leprosy Home/Colony, and is not a private land or vested with the petitioner.



14. This Court also takes note of the submission made on behalf of the respondents, raising objection to the veracity of the revenue record filed by the petitioner. In this regard, submissions made on behalf of MCD, in its counter affidavit, are reproduced as under:

“xxx xxx xxx

2. That, the present petition filed by the petitioner is misuse of the process of law and it is liable to be dismissed on the sought grounds that out of the total list of 53 persons annexed along with the present petition, only 17 qualify as lepers dependent on erstwhile MCD(EDMC). The list of the lepers as per the records of the respondent corporation is annexed herewith as “Annexure-A”.

3. That, even otherwise the present petition is nothing but a suit for declaration and injunction under the garb of a writ petition and therefore the same cannot be entertained or decided by this Hon'ble Court under article 226 of the constitution of India.

4. That, having said the above, it would further be not out of place to mention here that petitioners are claiming ownership rights to the property, through certain allotment letter and revenue records which are apparently forged and fabricated and therefore raise disputed question of the facts which can only be decided by leading of evidence and therefore the appropriate remedy would lie by way of civil suit and not writ petition in the present form.



5. That, having said the above, it would further be relevant to mention here that the impugned notices issued by the respondent corporation were pursuant to the directions issued in contempt petition being CCP No. 224/2004 titled as Kusth Asha Deep Federation Vs Ajoy K. Paitandy which was disposed of vide order dated 25.05.2017 and it lays down that a committee was to be constituted which would have addressed all the issues including the issue raised in the present writ petition. However, by filing this petition, there is every possibility of contradictory orders being passed and therefore this petition should not be entertained. The copy of the orders passed in the contempt petition is annexed herewith as "Annexure-B".
6. That remedy which could well have been availed by way of a civil suit has been wrongly instituted in the form of the present writ petition. Moreover, it is submitted at the cost of repetition that the claim of ownership by the petitioners, not in their individual capacities but by way of the organization cannot be adjudicated in the present petition and therefore the present petition is liable to be dismissed.
7. That the valuable Government land which belongs to the state running into 51 acres cannot be wished away or taken away by the unscrupulous encroachers, who under the garb of disabilities / leprosy cannot be allowed to stake claim to the valuable land which does not belong to them. The copy of the status / ownership of the land at Leprosy Home, Tahirpur annexed herewith as "Annexure-C(colly)".
8. That even otherwise the findings of the courts in other proceedings cannot be done away with only because the petitioners in the present case claim themselves to be the owners of these properties.
9. That it would be relevant to mention here that the lepers were never allotted any piece of land which was under the ownership of MCD and was allotted to them by DDA. It was rather these lepers who are still dependent on MCD for their basic survival in form of all the basic amenities of life, since they have been only granted permission to cultivate part of the lands to keep them busy and occupied. Neither there was any intension nor there was any documentation which could lead to an inference that the Lepers were being granted any kind of title qua these lands.
10. That the petitioner has been illegally occupying the said land and MCD had never allotted the said land to anybody be it leper or otherwise. That the petitioner has been wrongly claiming his

stake on the said land considering the fact that the ownership still lies with the MCD.

11. That the officers in-charge have been visiting on the said land for the purpose of maintenance as and when needed, because the said land belongs to MCD and in their right jurisdiction they are authorized to upkeep and develop the said land.
12. That the petitioner has been served notices for the purpose of eviction of the said land on regular basis and vacate the barracks. All notices being issued by the respondent / corporation are either under the supervision of the committee constituted by the Hon'ble Court or as per the guidelines issued by the Hon'ble Court.
13. That even otherwise if the petitioners were aggrieved by any of the notices issued by the respondent / corporation they could well have assailed the same by approaching the committee constituted by the Hon'ble Court or by filing an application before the court seized of the matter. This petition is therefore, liable to be dismissed.

xxx xxx xxx"

15. Thus, the petitioner cannot seek to establish any disputed questions of



facts as regards ownership over the land in question, when it is the categorical stand of the government authorities that the land in question belongs to the government. No right can be claimed by the petitioner on the basis of certain revenue entries, when the same have been disputed.

16. While holding that the presumption of correctness of government records is only applicable to genuine documents, and not forged or fraudulent entries, the Supreme Court in the case of *Vishwa Vijay Bharati Versus Fakhrul Hassan and Others*, (1976) 3 SCC 642, held as follows:

“xxx xxx xxx

14. It is true that the entries in the revenue record ought, generally, to be accepted at their face value and courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine, not forged or fraudulent, entries. The distinction may be fine but it is real. The distinction is that one cannot challenge the correctness of what the entry in the revenue record states but the entry is open to the attack that it was made fraudulently or surreptitiously. Fraud and forgery rob a document of all its legal effect and cannot found a claim to possessory title.

15. In Amba Prasad v. Abdul Noor Khan [AIR 1965 SC 54 : (1964) 7 SCR 800], it was held by this Court that Section 20 of the U.P. Act 1 of 1951 does not require proof of actual possession and that its purpose is to eliminate inquiries into disputed possession by acceptance of the entries in the khasra or khatauni of 1356 Fasli. While commenting on this decision, this Court observed in Sonawati v. Sri Ram [AIR 1968 SC 466 : (1968) 1 SCR 617, 620] that

“the civil court in adjudging a claim of a person to the rights of an adhvasi is not called upon to make an enquiry whether the claimant was actually in possession of the land or held the right as an occupant: cases of fraud apart, the entry in the record alone is relevant.”

We have supplied the emphasis in order to show that the normal presumption of correctness attaching to entries in the revenue record, which by law constitute evidence of a legal title, is displaced by proof of fraud.

xxx xxx xxx”

(emphasis supplied)

17. Further, there is no document on record to show any transfer of the



land in question in favour of the petitioner.

18. While holding that revenue records are not documents of title, the Supreme Court in the case of *P. Kishore Kumar Versus Vittal K. Patkar*, 2023 SCC OnLine SC 1483, held as follows:

“xxx xxx xxx

12. It is trite law that revenue records are not documents of title.

13. This Court in Sawarni v. Inder Kaur² held that mutation in revenue records neither creates nor extinguishes title, nor does it have any presumptive value on title. All it does is entitle the person in whose favour mutation is done to pay the land revenue in question.

14. This was further affirmed in Balwant Singh v. Daulat Singh (Dead) by LRs³ wherein this Court held that mere mutation of records would not divest the owners of a land of their right, title and interest in the land.

15. In Jitendra Singh v. State of Madhya Pradesh⁴, this Court after considering a catena of judgments, reiterated the principle of law as follows:

“6. *mutation entry does not confer any right, title or interest in favour of the person and the mutation entry in the revenue record is only for the fiscal purpose.”**

16. We may also profitably refer to the decision of this Court in Sita Ram Bhau Patil v. Ramchandra Nago Patil (Dead) by LRs.⁵ wherein it was held that there exists no universal principle that whatever will appear in the record of rights will be presumed to be correct, when there exists evidence to the contrary.

xxx xxx xxx”

(emphasis supplied)

19. This Court also notes the contradictory submissions made before this Court on behalf of the petitioner. On the one hand, the petitioner claims possessory/ownership rights over the land in question. On the other hand, the petitioner claims alternate rehabilitation. Clearly, the petitioner has no right, title or interest over the land in question.

20. Considering the aforesaid detailed discussion, no merit is found in the present writ petition. The same is accordingly dismissed, along with the pending application.



2025:DHC:8019



SEPTEMBER 8, 2025/au

MINI PUSHKARNA, J