



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

% **Judgment reserved on : 29th January, 2025**
Judgment pronounced on: 3rd February, 2025

+ W.P.(C) 15746/2023, CM APPL. 63270/2023 & CM APPL.
63271/2023

MEHRUDDIN ANSARI & ORS.Petitioners

Through: Mr. Samrat Nigam, Sr. Adv.
with Mr. Archit Arora, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ANR.

.....Respondents

Through: Ms. Prabhsahay Kaur, SC with
Ms. Deeksha L Kakar, Ms.
Kavya Shukla, Mr. Bir Inder
Singh Gurm & Mr. Rashneet
Singh, Advs. with Mr. Pankaj
Gunawat, CDD, Horticulture.

Ms. Manika Tripathy, SC with
Mr. Sanjay Singh & Mr. Gautam
Yadav, Advs.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The eight petitioners in the instant matter seek to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950, seeking the following reliefs: -

- “(i) Issue a writ of mandamus and certiorari and quash and set aside the impugned Notice dated 27.10.2023 issued by Respondent No.1 and any further order or notice of communication issued by Respondent No 1 and 2 and further declare that the said action of the Respondent No. 1 was illegal, arbitrary and un-constitutional.



- (ii) The Respondent No 2 through Respondent No. 1 may be restrained from taking possession of the demolished structure and/or any article lying thereon and putting any fence or demarcating the said demolished properties and area, in any manner, whatsoever.
- (iii) The Respondent No. land 2 may be restrained from creating any hindrance in protecting the said properties/articles by the Petitioners and take further steps from constructing the said demolished properties, as per law.”

2. Briefly stated, it is the case of the petitioners that they are in long occupation and possession of their respective properties in an unauthorised colony viz. Jogabai Extension, which is listed for regularization and for conferring ownership rights to the residents including the petitioners, under the PM-UDAY Scheme and accordingly, they have applied for grant of ownership rights under the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Act, 2019¹. It is the case of the petitioners that the area wherein the respective properties of the petitioners are located is a heavily populated area and not forming part of the Yamuna floodplains/area and they are aggrieved that a public notice came to be affixed at certain places in the area on 27.10.2023 which notified the general public as under: -

“सार्वजनिक सूचना

सर्व साधारण को सूचित किया जाता है कि माननीय हरित अधिकरण के वाद संख्या 06/2012 में दिनांक 13/01/2015 को दिल्ली विकास प्राधिकरण को यमुना बाढ़ क्षेत्र से सभी अतिक्रमण को हटाए जाने के आदेश दिए गए हैं।

इसके अनुपालन में दिल्ली प्राधिकरण द्वारा दिनांक 30.10.2023

¹ NCTD (RPRRUC) Act



को यमुना बाढ़ क्षेत्र में जोगाबाई में स्थित अनाधिकृत झुग्गी झोपडी इत्यादि अतिक्रमण को हटाया जाना है।

अतः यहाँ के निवासियों से अनुरोध है कि दिनांक 29/10/2023 तक उपरोक्त स्थान को खाली कर दे अन्यथा दिनांक 30.10.2023 को होने वाली अतिक्रमण विरुद्ध कार्यवाही में होने वाले नुकसान के उत्तरदायी वे स्वयं होंगे।

आदेशानुसार
अधिशायी अभियंता
उद्यान सिविल खंड-
दिल्ली विकास प्राधिकरण”

3. It is the claim of the petitioners that the proposed demolition action of their properties falling in the unauthorised colony is unwarranted, arbitrary and illegal since the village area of Jogabai, Zakir Nagar and Batla House has been declared and regularised as an ‘unauthorised colony’ by the Municipal Corporation of Delhi *vide* resolution no.155 dated 29.10.1981 and their properties are also protected from demolition or any adverse action by the respondents by virtue of Section 3 of the NCT of Delhi (Special Provisions Act), 2011². The details of the properties which are claimed by the petitioners are depicted in the following tabular form: -

S. No.	Property Description
Petitioner no. 1	P-243, 300 sq. yards, Khasra No.475/266 situated at Nafees Road, Batal House, Jamia Nagar, Okhla, New Delhi, documents of purchase 30.07.2009 S-25A, 100 sq. yards part of Khasra No.475, 478, 480/266 situated in Joga Bai Extension, Jamia Nagar, Okhla New Delhi, documents of purchase 11.10.2019

² Special Act 2011



	S-21 measuring 500 sq. yards, Khasra No.260/1, Joga Bai Extension, Jamia Nagar, Okhla, New Delhi, title document 25.01.2009.
Petitioner no. 2	S-25-A, 850 sq. yards, forming part of Khasra No.480/266, Joga Bai Extension, Jamia Nagar, Okhla, New Delhi, documents of purchase 18.12.2020.
Petitioner no. 3&4	Joint owners of P-232-A, 250 sq. yards forming part of Khasra No.308 situated in Batla House, Jaima Nagar, Okhla, New Delhi, documents of purchase 16.08.2018.
Petitioner no. 5	M-101, 300 sq. yards, falling in part of Khasra No.308 situated in Gali No.11, near Sultani Masjid, Batla House, Jamia Nagar, Okhla, New Delhi, documents of purchase 19.03.2018.
Petitioner no. 6	P-237/2, 100 sq. yards, Khasra No.475/266 situated in Joga Bai Extension, Jamia Nagar, Okhla, New Delhi, documents of purchase 10.12.2018.
Petitioner no. 7&8	Joint owners of P-237/1, 360 sq. yards, Khasra No.475/266 forming part of Khasra No.475/266, Joga Bai Extension, Jamia Nagar, Okhla, New Delhi, documents of purchase 10.12.2018.

4. The grievance of the petitioners is that in the garb of a public notice read by them on 27.10.2023, the respondents have carried out some demolition work in areas including part of their properties, which were built-up houses and have thereby caused damages to available articles lying in the said premises.

5. On filing of the present petition, the matter came up for hearing on 07.12.2023 on which date, appearance was put by the learned



standing counsel for the respondent no.1/DDA³ as well as the respondent no.2/GNCTD⁴ on receiving advance notice and a plea was advanced on behalf of the respondents that the instant petition is not only flawed on merits but also not maintainable, *inter alia*, for petitioners not having any locus standi in the present petition.

6. No notice of the instant petition has been issued. However, the respondent no.1/DDA has filed a short affidavit through Mr. Pankaj Gunawat, Deputy Director, Horticulture, DDA with certain documents, to which a rejoinder has been filed on behalf of the petitioners. It is also pertinent to mention that subsequently, on the directions of the Court, an additional affidavit has been filed on behalf of the respondent no.1/DDA dated 24.01.2025 along with certain documents.

7. In a nutshell, it has been pleaded on behalf of the respondent no.1/DDA that even as per the own admission of the petitioners, demolition action has already been carried out, but the petitioners appear to have encroached upon the public land again. It is submitted that the petitioners are evidently residing at different places and they have tried to obfuscate the place of their respective residence/occupation, which is not falling within the boundary of the unauthorised colony, and some of them are using the site for commercial purposes, and therefore, not falling within the boundary of the unauthorized colony in terms of the National Capital Territory of

³ Delhi Development Authority

⁴ Government of National Capital Territory of Delhi



Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Regulations, 2019⁵ notified in the Gazette w.e.f. 29.10.2019.

ANALYSIS & DECISION:

8. Having given my thoughtful consideration to the submissions advanced by the learned senior counsel for the petitioners as also learned standing counsel for the respondent no.1/DDA besides on meticulous perusal of the documents placed on the record, at the outset, there are dark cloud of doubt as regards the *locus standi* of the petitioners as also regarding the maintainability of the present petition.

9. First things first, even a bare perusal of the aforesaid details of the respective residences of the petitioners in the aforesaid tabular detail would show that they are located at different places and their plea that they are falling within the unauthorised colony of the Joga Bai Extension and thereby their possessory rights are saved under the NCTD (RPRRUC) Regulation, is flawed and bereft of any merit.

10. Evidently, no site plan has been filed by any of the petitioners with regard to the location of their properties. Although much mileage is sought to be taken from the Office Memorandum dated 23.11.2020⁶, the same is of no assistance to the petitioners. It would be expedient to reproduce the contents the Office Memorandum which goes as under: -

“The National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Act, 2010 and Regulations recognize and confer the rights of ownership on transfer or mortgage to the residents of 1,731 unauthorised colonies in Delhi. Delhi Development Authority is the nodal agency for the implementation of the

⁵ NCTD (RPRRUC) Regulation

⁶ No. LM/PM-UDAY/0008/2020/UDAY/POL/400



PM-UDAY (Pradhan Mantri Unauthorised Colonies in Delhi Awas Adhikar Yojana) scheme.

2. DDA has received several representations from RWAs of Unauthorized Colonies stating that the applications for properties falling in O-Zone are being rejected after due survey by empanelled GIS agencies causing inconvenience to the residents as they made the requisite payment for GIS survey.

3. In this regard, the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies), Regulations, 2019 clause 7 specifies that no rights shall be conferred or recognised (a) over prohibited land, that is, falling in reserved or notified forests, land identified as protected prohibited area by the Ancient Monuments and Archaeological Sites and Remains Act 1958 (24 of 1958), land falling in Zone-O, Yamuna Flood Plain, land falling in right of way of existing roads and Master Plan Roads, land under right of way of high tension lines, land falling in ridge area of Delhi and land reserved or protected under any other law for the time being in force"

4. As part of review of MPD 2021, DDA had conducted an exercise for re-delineation and re-zoning of Zone 'O' to regularize the human settlements. However, on account of certain legal impediments, the same have not been concluded. Planning Department of DDA is taking further necessary steps to resolve the issues and to ensure that the rights of the residents of these 75 colonies are duly available as per the scheme."

11. It should be stated that though in terms of the Annexure-A of the aforesaid Office Memorandum, *vide* serial no.74, Joga Bai Extension is categorised as one of the unauthorised colonies, which is subject to regularization and eligible for consideration of alternative allotment to the affected persons in the area in terms of PM-UDAY Scheme, Ms. Prabhsahay Kaur, learned standing counsel for the respondent no.1/DDA, has invited the attention of this Court to the additional affidavit dated 24.01.2025 filed on behalf of the respondent no.1/DDA



which shows the google earth position of the subject properties as under:-

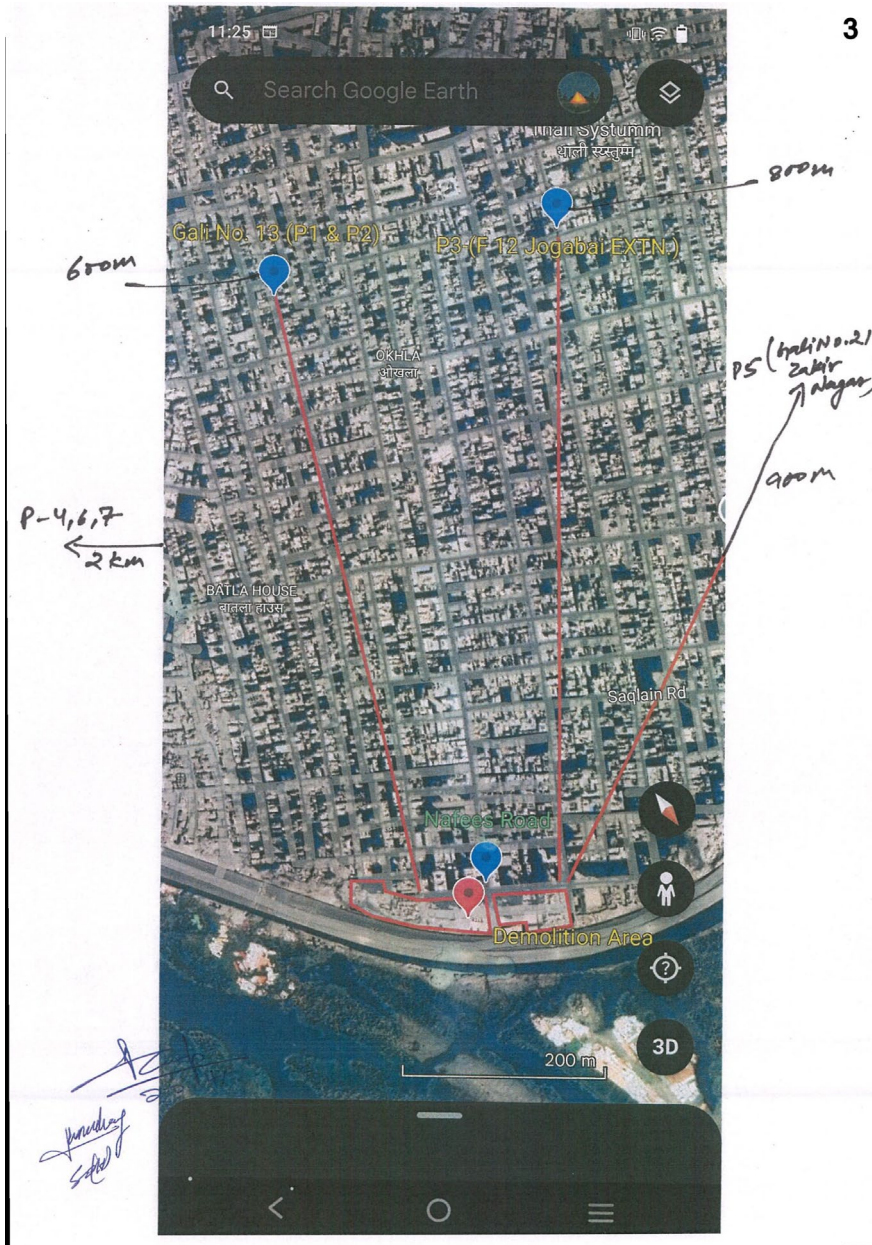


Image 1

12. It is pointed out that while the petitioner nos.1 and 2 claim to be residing in Gali No.13, the petitioner no.3 claims to be residing in F-12 Joga Bai Extension, which portions are depicted by blue balloon pins.



It is also pointed out that the location of the alleged residence/construction of the petitioner nos.4, 6 & 7 is about two kilometres away from the boundary earmarked for benefit under the PM-UDAY Scheme whereas the petitioner no.5 claims to be having properties in Gali No.21, Zakir Nagar within the portion shown in the bottom of the google earth map by way of pentagon figure in red where it is also written “demolition area”. The learned standing counsel for the respondent no.1/DDA has invited the attention of this Court to another map (Annexure-2) with the additional affidavit dated 25.01.2025 that shows the following position:

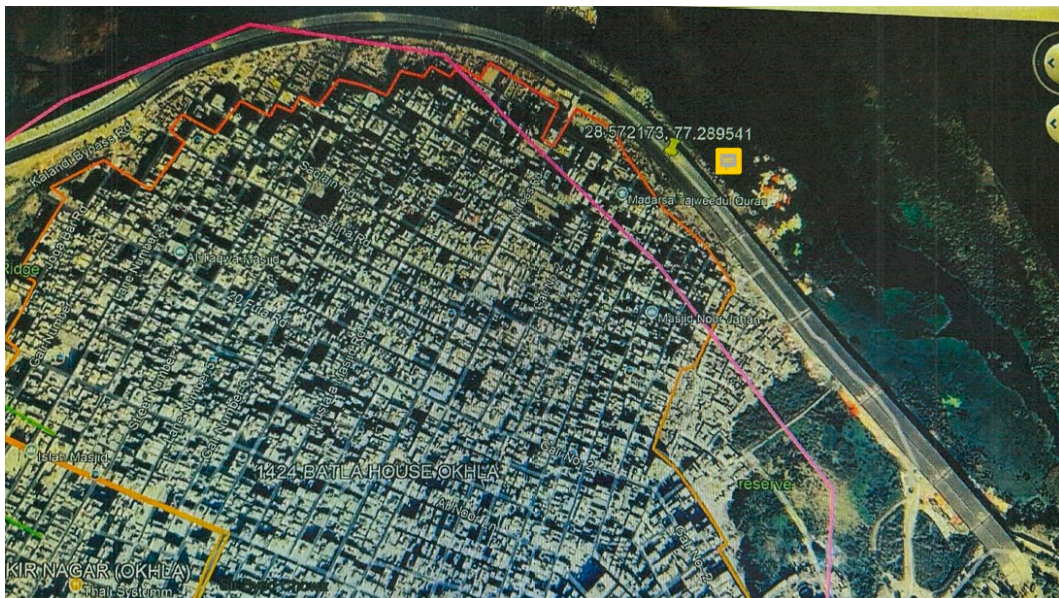


Image 2

13. It is pointed out that the boundary of Joga Bai Extension is demarcated by an orange line, the outer portion of which shows Yamuna river alongside the Delhi-Mumbai Expressway.



map filed along with the additional affidavit of the petitioners dated 27.01.2025 and it has been canvassed that the petitioners are located in the area falling in the purple patch which is claimed to be outside Zone 'O'.

16. I am afraid that the aforesaid position explained by the learned senior counsel for the petitioners is not fathomable since, at the cost of repetition, they are unable to show the exact location of the subject residences/construction sites. It is also pertinent to mention that the learned standing counsel for the respondent no.1/DDA has rightly referred to Regulation (7) of the aforesaid notification dated 29.10.2019⁷, thereby canvassing that although the unauthorised colonies which have been recognised by the Government fall outside the purview of any action of demolition, however, the land which is *inter alia* falling in Zone 'O' Yamuna floodplains is clearly excluded.

17. On a careful perusal of the Regulation (7)(a), there are certainly no two opinions that no right to recognition and/or grant of any benefit under the PM-UDAY Scheme arises if the land falls under Zone 'O' i.e., Yamuna floodplains. Faced with the above position, learned senior counsel for the petitioners, however, urged that their respective lands are not falling under Zone 'O'. I am afraid the said position canvassed by the learned Standing Counsel for the respondent DDA stands fortified by the decision of National Green Tribunal, Principal Bench, New Delhi, dated 30.08.2024⁸ in OA No. 190/2024 that considered the

⁷ NCTD (RPRRUC) Regulation

⁸ Original application no.190/2024



issue of illegal colonies in Zone ‘O’ of the Yamuna floodplains, whereby it has been categorically held that no right shall accrue or be conferred or recognised in respect of the land falling in Zone ‘O’ Yamuna floodplains in terms of the aforesaid Regulation (7). Accordingly, the National Green Tribunal came to pass certain directions in respect of 90 such unauthorised colonies which are falling in Zone ‘O’ and it has been pointed out that the matter is still under consideration.

18. In summary, the position that has been clearly brought out during the course of the arguments is that as many as 1,731 unauthorised colonies, excluding the affluent unauthorised colonies *vide* Regulation (7)(b), fall outside the purview of the notification dated 29.10.2019. As a matter of fact, it is explained by the learned standing counsel for the respondent no.1/DDA that the area which is presently under demolition action by the DDA is depicted in Image 2 by a yellow pin, also giving its coordinates i.e., the longitude and latitude⁹position. The location of site which has been the subject matter of demolition which would eventually be subject to further demolition due to re-encroachment over the land, are also shown in the photographs placed on record by the respondent No.1/DDA by way of additional affidavit dated 24.01.2025, taken on 22.01.2015 showing the same coordinates at Kalindi Bypass Road, Yamuna Catchment Area, besides two more photographs of the nearby area, evidently showing that digging-work is going on and also

⁹ 28.572173 & 77.289541



some jhuggi jhopri clusters having been erected on the right side, while on the left side is the expressway.

19. Thus, the position that emerges from the aforesaid discussion is that the petitioners miserably fail to show their exact location and they are trying to project as if their residence/construction is within the boundaries of the unauthorised colony, Joga Bai Extension. Assuming for the sake of convenience that they are inside the boundaries of demarcation carried out as depicted in Image-1 and Image-2 above, they are already protected from any demolition action, but it appears that there is complete mischief on their part inasmuch as they are attempting to lay a claim which clearly is without any foundation.

20. Lastly, there is no gainsaying that the demolition action has been carried out at the request of Delhi Jal Board in terms of its letter dated 17.04.2023 (Annexure A-3) which reads as under: -

“No. F-84/DJB/EE(C) DR.11/2023/49

Dated: 17-4-2023

The Dy. Director(Hort.),
Division 7, DDA
Seed bed Park, School Block
Shakarpur, Delhi-110092

Subject:- Removal of encroachment in the proposed alignment of 1800 mm dia interceptor sewer.

Name of work:-Construction of interceptor sewer from Barapullah drain to Batla house phase-II SPS and construction of 35 MGD SPS at Batla House phase-II Including its rising main up to Okhla WWTP on DBO basis

in reference to the permission vide no. F.22 A(22) 2022/11/878 Dated 30.08.2022 issued from the office of Dy. Dir. (IL)DDA for execution of the above work, it is submitted that the work of laying of interceptor sewer line as per the approve alignment is in progress. As per the proposal, the jacking pit of microtunelling work is proposed opposite to NH Pillar No. 54 and at the corner of Nafees road near Police Booth. The location has been marked in red



on the enclosed alignment drawing of interceptor sewer. At this location there is encroachment by the Jhuggies dwellers due to which the work of making the launching pit of microtunnelling work is held up.

You are requested to remove the encroachment from the site to facilitate the preparation of pit of 10M X 10M size. It is pertinent to mention that this work is related to the Yamuna Cleaning Project, and the progress of it is being monitored by High Level Committee (HLC) appointed by Hon'ble NCT vide order dated 09.01.2023. The work is scheduled to be completed within its timeline fixed by the HLC i.e. June 2023.

Encl.: As above.

RAJIV SHARMA)
Executive Engineer(C)DR-II"

21. It is pursuant to the aforesaid letter that the demolition action has already been carried out on 30.10.2023, thereby removing encroachment on an area of about 2 acres entailing demolition of semi-pucca/structures and 12 jhuggi jhopdis, as per the demolition report dated 30.10.2023 (Annexure-4).

22. There is no gainsaying that the process of identification of unauthorised colonies is a rigorous one which involves firstly identifying the area and thereafter, setting out the boundary under the aegis of the Boundary Delimitation Committee which comprises members from Survey of India, officials of the DDA as well as the Revenue branch of the GNCTD. The petitioners place on record no iota of material to upset the demarcation of the boundary laid down for applicability of the PM-UDAY Scheme.

23. In view of the foregoing discussion, this Court has no hesitation in finding that the petitioners have woefully failed to substantiate their *locus standi* in filing the present writ petition. Accordingly, the present petition is hereby dismissed for being misconceived, ill-conceived and



bereft of any merit, with token costs of Rs. 5,000/- imposed on each of the petitioners for indulging in gross abuse of the process of law.

24. All pending applications stand disposed of accordingly.

DHARMESH SHARMA, J.

FEBRUARY 03, 2025/Ch