



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

% **Judgment reserved on : 08 January 2025**
Judgment pronounced on : 15 January 2025

+ CONT.CAS(C) 1147/2023

RIZWAN AHMED & ANR.Petitioners
Through: Mr. Rajiv Kumar Ghawana, Mr.
Ashish Kumar, Mr. Viklap
Chandela and Mr. Sachin
Chaudhary, Advs.

versus

SUBHASISH PANDA & ORS.Respondents
Through: Ms. Manika Tripathy Pandey,
SC with Mr. Ashutosh Kaushik,
Mr. Barun Dev and Mr. Vansh
Kalra, Advs. for DDA
Mr. Raghvendra Upadhyay,
Panel Counsel-GNCTD with
Ms. Purnima Jain, Mr. Vaibhav
Tripathi, Advs. for R-5/SHO

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

JUDGMENT

1. The petitioners seek initiation of contempt proceedings against the respondents/Delhi Development Authority¹, Horticulture Division, arrayed as respondents No. 1 to 4, besides respondent No.5/SHO (Jamia Nagar), near Okhla Head, under Sections 11 and 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India, 1950, for the alleged wilful disobedience of

¹ DDA



directions of this Court dated 15.11.2018, passed in W.P.(C) No. 11355/2017.

2. Briefly stated, the case of the petitioner No.1 is that he is the owner of land measuring 4 bigha 07 biswas, whereas petitioner No.2 is the owner of land measuring 2 bighas 19 biswas forming part of Khasra No. 249 situated in village Jogabai, Tehsil Mehrauli, New Delhi. It is stated that they had constructed residential houses on the aforesaid land and have been in occupation of the same for the last three decades.

3. The petitioners invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950, for declaration of the acquisition proceedings having been lapsed qua the subject property in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is stated that the said writ petition was decided *vide* order dated 15.11.2018, whereby it was declared that the acquisition proceedings in respect of the aforementioned land besides land falling in Khasra No. 225 measuring 2 bigas 02 biswas has been deemed to have lapsed.

4. The grievance of the petitioners is that a demolition drive was carried out by the respondents on 08.08.2023 in an unlawful manner and built up structures on the aforesaid land belonging to the petitioners were bulldozed, which is alleged to have been done ostensibly while carrying out the demolition drive in respect of properties located in Khasra No. 235. Reliance in this regard has been placed on documents, viz., electricity bills, photographs of the built-up



and demolished structures which form part of Annexures P-2, P-4 and P-5 respectively.

5. Upon notice being issued to the respondents in the present proceedings, a reply has been filed on behalf of respondents No. 1 to 4 supported by an affidavit of Pankaj Gunawat, Deputy Director (Horticulture) dated 22.04.2024, wherein it is *inter-alia* brought out that the land falling in Khasra No. 249 measuring 11 bigas and 16 biswas was acquired *vide* award No. 19/92-93 of the Land Acquisition Act, 1894, and the physical possession of Khasra No. 249 measuring 5 bigas 4 biswas was handed over to the DDA by the LAC² /L&B³ on 13.06.2013, and the same was thereafter transferred to the Horticulture Division-VII of the DDA on 13.02.2017. It is specifically pleaded that the possession of remaining 6 bigas 12 biswas falling in Khasra No. 249 had not been handed over to the DDA by the LAC/L&B.

6. Relying on the copy of possession proceedings dated 13.06.2013 (Annexure R-1), it is stated that the land in question is falling in the Yamuna Flood Plains and an unauthorized encroachment had been removed including unauthorised constructions being demolished at the site, pursuant to Public Notice dated 02.08.2023 alongwith Inspection Notice dated 24.07.2023⁴. It is re-asserted that the possession of 5 bigas 4 biswas in Khasra No. 249 has already been in the possession of the respondents No.1 to 4 and it is denied that any wilful disobedience of the directions of this Court has been carried out by them.

² Land Acquisition Collector

³ Land & Building

⁴ Inspection Notice bearing No. F8(78) & #13; D-3/DDA/516



7. Having heard the oral arguments addressed by the learned standing counsel for the respondents No.1 to 4/DDA, although an opportunity was granted to the petitioner to file written submissions, the same has not been placed on the record till date. On perusal of the relevant record of this case, as well as the written submissions filed by the respondents No.1 to 4/DDA, it would be expedient to note that that this Court *vide* order dated 15.11.2018 observed as under :-

“1.The Petitioners have approached this Court for a declaration that the entire land acquisition proceedings including Section 4 of the Land Acquisition Act, 1894 (‘the LA Act’), the declaration dated 23rd June, 1989, Section 6 of the Land Acquisition Act, 1984, the declaration dated 22nd June 1990 and the award no. 19/92-93 announced on 18.6.1992 in respect of the petitioners land admeasuring 7 Bigha 06 Biswa in Khasra no.225 (2-02) & 249(5-04) situated in the revenue estate of Joga Bai, Tehsil Mehrauli, New Delhi, have lapsed in view of section 24 (2) of The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013. (‘LARR Act’).

2.In the counter affidavit filed on behalf of the Land Acquisition Collector it is stated that the possession of the land falling in Khasra no.225 (2-02) could not be taken but actual vacant possession of 249(5-04) was taken on 13th June, 2013 on the spot by preparing possession proceedings and the said land was handed over to the DDA. It must be noted here that according to the Petitioners they still continue to be in actual physical possession of Khasra No. 249(5-04).

3.Be that as it may, as regards the payment of compensation, it is stated that “Statement 'A', Naksha Muntazamin and payment file is not available in the office of the answering Respondent.” In other words, it is unable to be confirmed by the LAC that compensation in respect of the said land has been paid to the recorded owners, viz., the Petitioners.

4. Mr Rajiv Kumar Ghawana, learned counsel apperaing for the Petitioners relies on a series of judgmnets of this Court, including the judgment dated 2nd May, 2016 in W.P.(C) No.3714/2015 (*Shiv Lal v. Govt. of NCT of Delhi*) and judgment dated 31st January, 2018 in W.P.(C) No.6337/2016 (*Rafiq Ahmad v. Govt. of NCT of Delhi*) to urge that in similar circumstances, this Court has held that the failure to produce the proof of compensation should be



construed as fulfilling one of the requirements for Section 24 (2) of the LARR Act, viz., that the compensation has not been paid.

5. Following the decisions in *Shiv Lal v. Govt. of NCT of Delhi* (*supra*) and *Rafiq Ahmad v. Govt. of NCT of Delhi* (*supra*), this Court allows the present writ petition by declaring that the land acquisition proceedings in respect of the aforementioned land has lapsed.”

8. A careful perusal of the aforesaid order would show that a dispute had been raised to the effect that the DDA was in possession and occupation of land measuring Khasra No. 249 measuring 5 bigas and 4 biswas. Although the same was disputed by the petitioners in the writ proceedings, this Court, based on the previous pronouncements on the subject, allowed the writ petition, thereby declaring that land acquisition proceedings in respect of the aforementioned land had lapsed.

9. It is evident that there was a dispute as to the physical possession over the land measuring 5 bigas 4 biswas falling in Khasra No. 249, which was not adjudicated upon by this Court, as there is no clear finding that the petitioners were in physical possession of the aforesaid land. The documents viz., the electricity bills and the photographs placed on the record are unable to substantiate that the petitioners were in possession of any portion of the aforesaid land.

10. Suffice it to state that the demolition action was carried out pursuant to the directions passed by this Court in the writ petition bearing W.P.(C) 6378/2023 tilted **Manav Samaj Sudhar Suraksha Sanstha v. DDA**, whereby the following order was passed: -

“1. Learned Counsel for Delhi Development Authority [*DDA*] has handed over a copy of the status report to the Bench, which is not on record. DDA is granted one week’s time to ensure that the



status report is placed on record. On perusal of the status report, it is revealed and the Petitioner admits, that appropriate action against all unauthorised and illegal construction/ encroachment of land bearing Khasra No. 249, Gali No.7, Yamuna Pusta land measuring 5 bighas 4 biswa situated at Village Joga Bai, Okhla, New Delhi has already been undertaken.

2. At this juncture, it has been brought to the notice by learned counsel

for Respondent No. 6 (Zahid Khan) that building where the Petitioner is residing, i.e., A-7, Bhaskar Compound, Abul Fazal Enclave, Jamia Nagar, Okhla, New Delhi-110025 is illegally constructed and is an unauthorised construction.

3. MCD and DDA are directed to inspect the Petitioner's building and in case the same is found to be an unauthorised/ illegal structure, the said authorities will take appropriate action in accordance with law. Let a compliance report be filed positively within a period of four weeks from today.

4. The status report filed by MCD reveals that the subject matter property of the present petition belongs to DDA and therefore, DDA is further directed to take appropriate measures to secure the property by fencing so that it is not encroached upon again.

5. Re-notify on 06th October, 2023.”

11. Further, there is a categorical assertion on affidavit in the reply filed by the respondents No. 1 to 4/DDA to the effect that approximately 3,493 hectares of land out of the total 9,700 hectares falling in Zone 'O', is in the possession of the respondent No.3/Horticulture Civil Division-9 of the DDA. In this regard, it would be relevant to extract paragraphs (08), (10), (11) and (12) of the reply filed by the respondents No. 1 to 4/DDA, which read as under:-

“8. It is respectfully submitted that, among the 3.493 hectares of land under the purview of the Delhi Development Authority (ODA), a substantial portion comprising 1.550 hectares is under its possession remains free from encroachments and is mostly fenced land. Only that section is not fenced encroachments which is either elevated road or Ring road which doesn 't require fencing. A 22 kms long stretch of Yamuna floodplains from Wazirabad barrage to Okhla Barrage (eastern and western banks) covering an area of about 2000 hectares is being taken up for restoration as per the directions of the Hon'ble NGT and recommendations of the



Principal Committee constituted by Hon'ble NGT. This serves as a testament to the diligent efforts undertaken to safeguard and maintain the integrity of the land under possession of ODA for development. As part of an overreaching commitment to sustainable development, the DOA has initiated 11 projects. Presently, notable progress has been achieved, with work completed on approximately 322 hectares of land, while active projects are underway on an additional 750 hectares. This collective effort encompasses a myriad of undertakings, with a primary focus on the restoration of 26 wetlands, covering an expansive area of approximately 35 hectares. The augmentation of water capacity in these wetlands, amounting to a substantial 1,350 million litres during the monsoon season, stands as a testament to the commitment towards water resource management. Furthermore, as part of an extensive afforestation initiative, over 7 lakhs trees conducive to floodplain ecology have been planted, alongside the cultivation of approximately 92 lakhs saplings of various grass species. These endeavours not only contribute to the ecological sustenance of the region but also serve as a commendable step towards enhancing the overall environmental landscape.

10. In compliance with the directives of the Hon'ble Court to secure the entirety of the land situated in Yamuna Pusta under the possession of Respondent No.3, and in furtherance of the information presented in the above-mentioned paragraphs, it is imperative to refer to the map delineated as Annexure A4 for a comprehensive understanding of the fencing measures implemented. The map reveals a delineation in blue outlining areas where fencing has already been successfully established. Conversely, certain sections lacking the blue demarcation represent elevated roads that inherently do not necessitate fencing. To bolster security measures, Respondent No. 3 has strategically installed surveillance cameras across the property to monitor and safeguard against potential trespassers. Any detected encroachments are promptly addressed, and fines are levied to deter such unauthorized activities, thereby ensuring the integrity and security of the designated land. The said 0-Zone map of Yamuna Pusta region outlining areas fencing.

11. It is hereby submitted that the subject land, Khasra 249 (11-16), situated in Village JogaBai, New Delhi, as per land records maintained by Respondent No. 3 was acquired for answering Respondent vide Award no. 19/92-93, and the physical possession of Khasra no. 2..J.9 min (5--t.) was duly handed over to the answering Respondent No. 3 on 13.06.2013. Subsequently, Respondent No. 3 executed the transfer of the aforementioned land



to its Horticulture Division-VII on 13.02.2017. It is further submitted that, in an earnest effort to address any encroachments measures were expeditiously on the subject property. Appropriate undertaken and formal proceedings of demolition of the encroachments were carried out on 08.08.2023.

12. That with regard to Khasra No. 249, it is noted that the encroachment- prone area necessitates fencing on two sides, which has been duly executed. The removal of encroachments has been diligently pursued. complemented by the ongoing process of fencing the land. alongside the installation or boards. Enclosed herewith are images documenting the demolition process for reference and review marked.”

12. Without further ado, in view of the fact that the demolition drive to remove the encroachment, as well as the unauthorized constructions was evidently carried out pursuant to the directions of this Court, no deliberate or wilful act of disobedience of the directions of this Court can be attributed upon the respondents herein.

13. Accordingly, the present contempt petition is dismissed.

DHARMESH SHARMA, J.

JANUARY 15, 2025

Sp/sadiq