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

Date of decision: 28th April, 2025

+ **LPA 495/2018, CM APPLs. 34970/2018, 44626/2018, 11745/2019, 19017/2020, 24784/2025 & 24968/2025**

**RAJEEV NEELU KACHWAHA CHARITABLE
TRUST (NGO SWATI)**

.....Appellant

Through: Mr. Raj Shekhar Rao, Senior
Advocate with Mr. Samar Kachwaha,
Mr. Rahavendra Bajaj, Ms. Akanksha
Mohan and Mr. Aakshat Khetarpal,
Advocates

versus

**DELHI URBAN SHELTER IMPROVEMENT
BOARD & ORS**

.....Respondents

Through: Mr. Anuj Chaturvedi, Advocate for
DUSIB
Mr. Sandeep Kumar Mahapatra,
CGSC with Mr. Sugam Kumar Jha,
Advocate for R-3
Mr. Ripu Daman Singh Bhardwaj,
CGSC with Mr. Kushagra Kumar,
Advocate for UOI

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

**CM APPL. 24784/2025 & CM APPL. 24968/2025 (condonation of delay
in filing affidavit)**

2. For the reasons stated in the applications, the delay is condoned and both the affidavits are taken on record.



3. The applications are disposed of.

LPA 495/2018, CM APPLs. 34970/2018, 44626/2018, 11745/2019, 19017/2020

Factual Background

4. The present appeal has been filed by the Appellant - Rajeev Neelu Kachwaha Charitable Trust (hereinafter “*the Appellant Trust*”) under Clause 10 of Letters Patent read with Section 10 of the Delhi High Court Act, 1966, challenging the impugned order dated 16th August, 2018 (hereinafter “*the impugned order*”) passed by the Id. Single Judge dismissing the writ petition being *W.P.(C) 6613/2018* filed by the Appellant.

5. The said writ petition was filed by the Appellant Trust challenging letters dated 24th July, 2013 and 7th June, 2018, respectively, by which the Appellant Trust has been directed to vacate and handover the premises occupied by it at Kanak Durga Basti, R.K. Puram, Delhi (hereinafter “*the premises*”).

6. The case of the Appellant Trust is that it was registered in the year 1986. A centre by the name of “SWATI” was established, in the year 1990, by the Appellant Trust to run programmes for women and children in the Tigri Basti, South Delhi. It is stated that sometime in 1991, the Delhi Development Authority, Slum Wing, (hereinafter “*the DDA, Slum Wing*”) invited the Appellant Trust to establish another project at Kank Durga Basti, R.K. Puram. In respect of the same, a small room in one corner of the JJ cluster at Kanak Durga colony (hereinafter “*the allotted premises*”), was temporarily allotted to the Appellant Trust by DUSIB *vide* allotment letter dated 20th July, 1992. The said letter would be relevant and the same is set out below:



“Sub: Allotment of room recently constructed in Kanak Durga JJ cluster for education purpose

Madam,

*In continuation of D.O. letter no. PA /CM (8) /1/92/ D- 362 dated 21-05-1992 (from concessioners (SSJJ) I) on the subject cited above, I am directed to say that **a room in one corner of the JJ cluster, Kanak Durga colony is allotted to your organization temporarily** for running Slum Basti non formal school for the Slum children and women in the Kanak Durga colony on the enclosed terms and conditions.*

It is requested that an authorized representative of your organization may be deputed to contact Executive Engineer (CPD) Slum Wing, D.D.A. Maharani Bagh, New Delhi for taking over the possession of allotted accommodation.”

7. It is the case of the Appellant Trust that on the land where the premises was made available by DDA, the Appellant Trust with its own resources, without any aid from the government, initially erected tented accommodations. Thereafter, the Appellant Trust built five large rooms to conduct its activities. The said construction is stated to have been carried out with the approval of the concerned authority *i.e.*, Commissioner (Slums), DDA. In respect of the same, the Appellant Trust has relied on the letter dated 21st May, 1992, which reads as under:

*“[...] Your proposal for putting up purely temporary structure of recyclable materials is appreciated. **Slum Wing has no objection in your putting up the proposed temporary structures as was discussed with me. These structures should be absolutely of temporary nature and materials should also be recyclable, so that when this slum basti is shifted from its present location, the materials can be recycled,** if you are required to establish the structures at some other location. **As you***



know that the future of the jhuggi-jhompri basti is not still known as to whether a successful replication of in-situ upgradation takes place or the slum dwellers have to be shifted somewhere else. [...]

8. The land on which the allotted premises exists, was thereafter, transferred to the Respondent No. 1 – Delhi Urban Shelter Improvement Board (hereinafter “DUSIB”). The allotment of the said premises to the Appellant Trust is alleged to have been cancelled by DUSIB *vide* letter dated 24th July, 2013 (hereinafter “*the cancellation letter*”) on the ground that subject land has been transferred to the Rajya Sabha Secretariat for its own use. However, the Appellant Trust has taken the position that the said letter was never received by it. As per the Appellant Trust, it became aware of the cancellation letter only in 2018 when it received the letter dated 7th June, 2018 from DUSIB, directing the Appellant Trust to vacate and handover possession of the allotted premises to DUSIB. The said letter dated 7th June, 2018 reads as under:

“ SUB: Regarding Cancellation of allotment of one room in BVK at Kanak Durga, R.K. Puram.

Madam,

This is with reference to the subject cited above.

In this regard it is informed that since the allotment of the above said premises has been cancelled by this office letter no. F/2/80/BVK/57/2002/D-394 dated 24/07/2013 you are requested to hand over the possession of the above said premises to EE C-5 immediately and clear other pending dues, if any, in respect of Electricity & Water charges.”



Proceedings before the Id. Single Judge

9. The said letters dated 24th July, 2013 and 7th June, 2018 were challenged by the Appellant Trust in **W.P.(C) 6613/2018**. The case of the Appellant Trust was that it is entitled to continue to be in possession of the allotted premises, so long as, the Kanak Durga Basti is not shifted out, as the Appellant Trust is running activities for children and women in the said *Basti*.

10. The Id. Single Judge has considered the matter and had opined that the Appellant Trust was at best a licensee in the allotted land and could not claim any rights once the licence is terminated. The writ petition being **W.P.(C) 6613/2018** was accordingly dismissed *vide* the impugned order, which is set out below:

“ 2. Briefly stated, the relevant facts are that the petitioner had set up a Centre under the name and style of SWATI in Tigri Basti, South Delhi to run a programme/project for women and children. This was set up in the year 1990. The petitioner was allotted a plot of land along with a small built up room in "Kanak Durga Basti". A formal letter of allotment was issued to the petitioner on 20.07.1992. The petitioner is carrying on its activities from the premises allotted to it, for the past 27 years. The said allotment was cancelled by a communication dated 24.07.2013 (which is impugned in the present petition). The said land was allotted to the petitioner by the JJ Wing of MCD, which stands transferred to the respondent (DUSIB). DUSIB now seeks to dispossess the petitioner from the aforesaid land.

3. The petitioner is being evicted from the said land on the ground that the land in question has been transferred to the Rajaya Sabha Secretariat, which requires the said land for its own use.

4. The activities carried on by the petitioner are for the benefit of the slum dwellers. It is also not disputed that the allotment of the land in question was made to the petitioner for running a



charitable institute to cater to the needs of the slum dwellers. This Court is also informed that the slum is in the process of being removed and the slum dwellers are to be rehabilitated. Initially plans for rehabilitation of the slum were being made by the JJ Wing of the MCD. Thereafter, the DUSIB took over the functions of the said department. This Court is informed that this policy has undergone a change recently. In respect of the land belonging to the Central Government, the Delhi Development Authority (DDA) is now charged with the function of rehabilitating the slum dwellers unless the DUSIB is specifically requested to do so.

*5. Concededly, the slum dwellers cannot be removed without a proper scheme for their rehabilitation. This is also the view expressed the Division Bench of this court in **W.P(C) No. 8904/2009** captioned as **Sudama Singh & Ors V. Govt of Delhi and Anr.** and other connected matters decided on **11.02.2010**. However, this does not apply to the land occupied by the petitioner. The petitioner, at best, was a licensee and was granted the permissive use of the land allotted to it. Mr Chauhan, learned counsel appearing for DUSIB states that the allotment of the land in favour of the petitioner was unauthorised. It is not necessary to examine this controversy as undisputedly, the licence, if any, stands terminated. Thus, in any view of the matter the petitioner has no legal right to continue to occupy the premises in question.*

6. In this view, this Court finds no merit in the present petition. The same is, accordingly, dismissed. The pending application is also disposed of.”

Proceedings in the LPA

11. The Appellant Trust being aggrieved by the impugned order of the Id. Single Judge has preferred the present appeal. When this appeal was filed, initially on 29th August, 2018, the Predecessor Bench had directed stay of the impugned order and directed de-sealing. The present appeal has since been



pending.

12. On 23rd November, 2022, a detailed order was passed by the Predecessor Bench, which had considered the entire matter, and a perusal of the said order would show that the only issue that has to be considered now is *qua* allotment of alternate land at Mahiwal Camp, Sector-3, R.K. Puram, to the Appellant Trust. The relevant portion of the said order reads as under:

“ 34. Ordinarily, we would have applied the 1992 Scheme to the appellant-Trust, because it was allotted the subject premises under the said Scheme.

34.1 Therefore, the contention of DUSIB, that since Clause (5) of the 1992 Scheme, which permitted the continuation of the appellant-Trust at the subject premises had been dropped in the 2012 Scheme, the appellant-Trust had no right to continue at the subject premises would not have, perhaps, found favour with us, but for the fact that the subject premises has been allotted to Rajya Sabha.

35. Insofar as the appellant-Trust is concerned, its allotment, even under the 1992 Scheme, was temporary.

35.1 Therefore, the appellant-Trust’s continuation at the subject premises is interdicted in law, with the allotment of the subject premises in favour of Rajya Sabha.

35.2 That said, the DUSIB has taken a position, as noticed above, of allotting an alternate site to the appellant-Trust, at Mahiwal Camp site.

36. The correspondence exchanged between the appellant-Trust and DUSIB suggests, that the area of disagreement lies in a very narrow compass i.e., with regard to:

- (i) The tenure of license;
- (ii) The usage of chabutra and/or the open space; and
- (iii) The apprehension concerning allotment of the new site by DUSIB to another agency during the period that the appellant-



Trust carries out its operations at the said site.

37. It is with regard to the aforesaid aspects, that we had asked Mr Bhardwaj to take instructions in the matter.

37.1 Unfortunately, respondent no.2/L&DO has not come up with any constructive suggestions. Instead, as noted, it has shot off a communication dated 16.08.2022, whereby it has taken the position that the DUSIB has no locus to deal with aspects concerning relocation of the appellant-Trust to a new site i.e., Mahiwal Camp as the land belongs to it.

*38. It is pertinent to note, **that this stand of respondent no.2/L&DO is based on its contention, that the Government of India, after 2006, has stopped allotting land to NGOs, Societies, Trusts and such like organizations.***

38.1 In our view, the stand is based on a misappreciation of the decision said to have been taken by the Government of India, albeit after 2006, to stop allotment of land to NGOs and voluntary organizations.

39. As discussed above, and something which cannot but be accepted, the appellant-Trust and such like organizations, under the Schemes which have been in vogue; the last being the 2012 Scheme, which we are told is still subsisting, can obtain “allotment” of land, albeit temporarily, that too for a specific purpose.

39.1 Therefore, for respondent no.2/L&DO to take a stand which tantamounts to depriving the appellant-Trust of its ability to relocate itself in consonance with the offer by DUSIB is difficult to appreciate.

*40. **Thus, having regard to the aforesaid discussion, we are of the view that respondent no.2/L&DO should permit the relocation of the appellant-Trust to the new site i.e., Mahiwal Camp, in case the said site has not been allotted to any other***



entity/person.

41. Furthermore, we are also of the opinion, that DUSIB can have no objection to the modifications sought by the appellant-Trust, to the offer of temporary allotment made by it vide communication dated 27.04.2022.

42. As a matter of fact, if the temporary allotment is made in favour of the appellant-Trust which is co-terminus with the subsistence of the slum dwellers at the given construction site, it may work to its benefit, and also fulfil the higher purpose that forms part of the Schemes which have been framed and/or revised from time to time.

43. DUSIB, in our opinion, should give access, both to the chabutra/open space, as well as the open area abutting the new site, as that can only be used by the appellant-Trust for extending community services to the slum dwellers.

44. **In view of the foregoing discussion, the only aspect that remains to be dealt with is the operative directions that need to be issued in the matter.**

44.1 **We will, thus, issue operative directions, once respondent no.2/L&DO returns with clear instructions, as to whether or not the new site i.e., Mahiwal Camp has been allotted to any person/entity.**

45. The Deputy L&DO will physically remain present in Court, on the next date of hearing.

46. List the matter on 01.12.2022.”

13. A perusal of the above would show, that the Court had clearly come to the conclusion, that the licence of the Appellant Trust *qua* the allotted premises was a co-terminus licence. Further, the only option that the Court was exploring was whether a new site could be allotted to the Appellant Trust



for the purposes of continuing the community services. The Land & Development Officer (hereinafter “L&DO”) was thereafter directed to remain present with instructions as to whether the Mahiwal Camp has been allotted to any entity or whether the same may be allotted to the Appellant Trust.

14. On 12th December, 2022, Mr. Ripu Daman Singh, Ld. Counsel, along with Mr. Satish Kumar Singh, Deputy Land & Development Officer, had appeared for the L&DO and submitted that the land across the Mahiwal Camp, which was prayed for by the Appellant Trust has been allotted to Indian Institute of Technology, Delhi. However, this statement was subsequently withdrawn. On 19th December, 2022 it was clarified that though a recommendation was made in 2020 *qua* allotment of the land across the Mahiwal Camp to IIT, Delhi, the said land has not been allotted to any entity.

15. Since then, however, the present matter has remained pending for consideration before the Court and no alternate land has, in fact, been identified to be allotted to the Appellant Trust. According to the L&DO, as a policy, no land is usually allotted to an NGO, as an alternate land, especially since the land existing is a licensed land. It is submitted by the Ld. Counsel for DUSIB that certain alternate lands were also explored by DUSIB, however, L&DO had objected to the same.

16. In conclusion, however, the fact remains is that the Appellant has been enjoying the site in question since 1992. The land has undisputedly been allotted to the Rajya Sabha Secretariat for residences. The Appellant was merely a licensee who could not have enjoyed any more rights in the land.

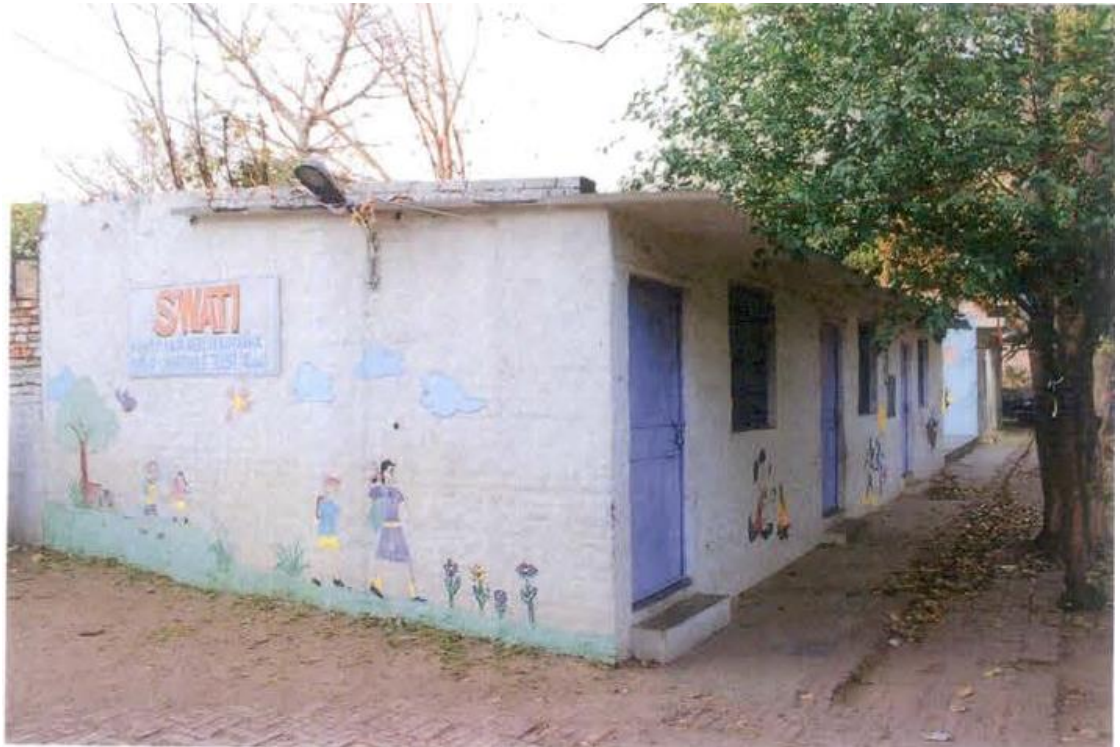
17. The photographs of the premises constructed by the Appellant Trust on the allotted premises have been placed on record and the same have been perused by the Court. The said photographs are extracted hereunder for ease



2025:DHC:3147-DB

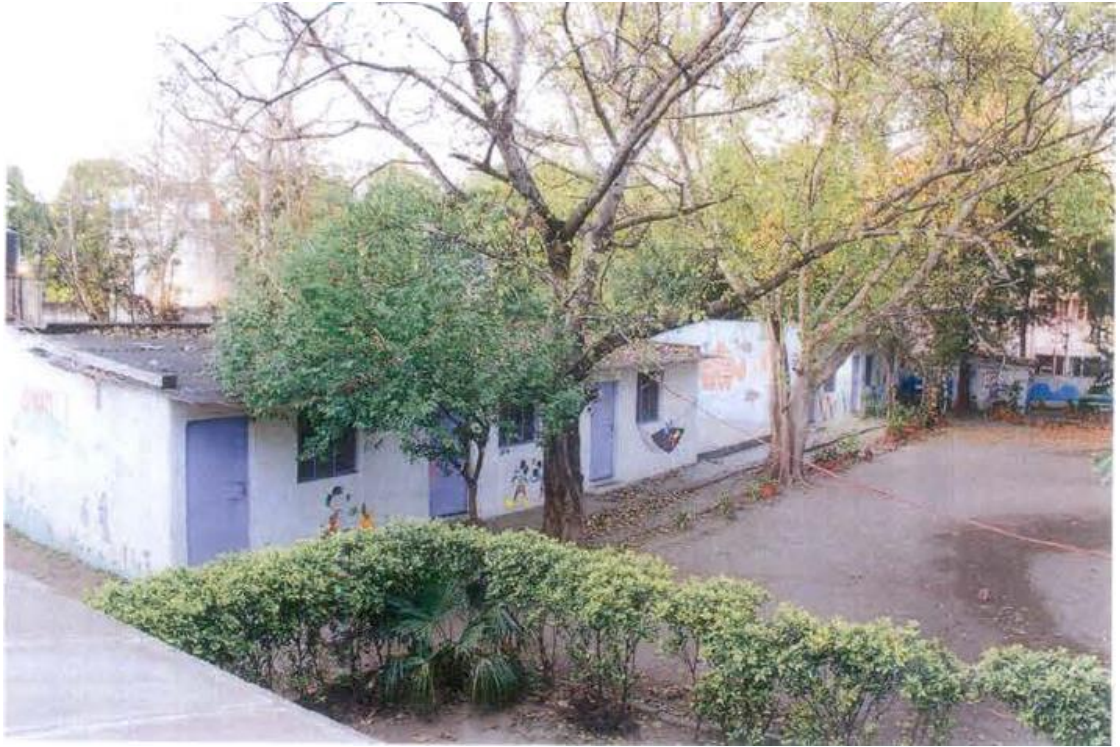


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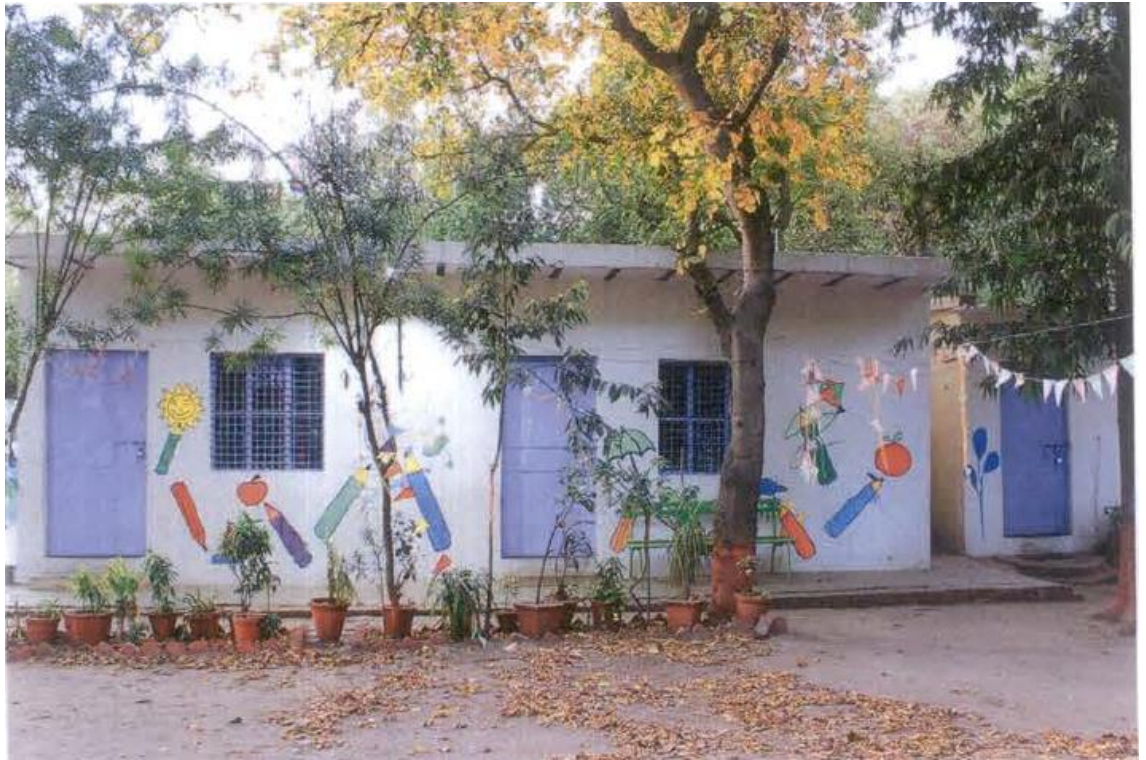


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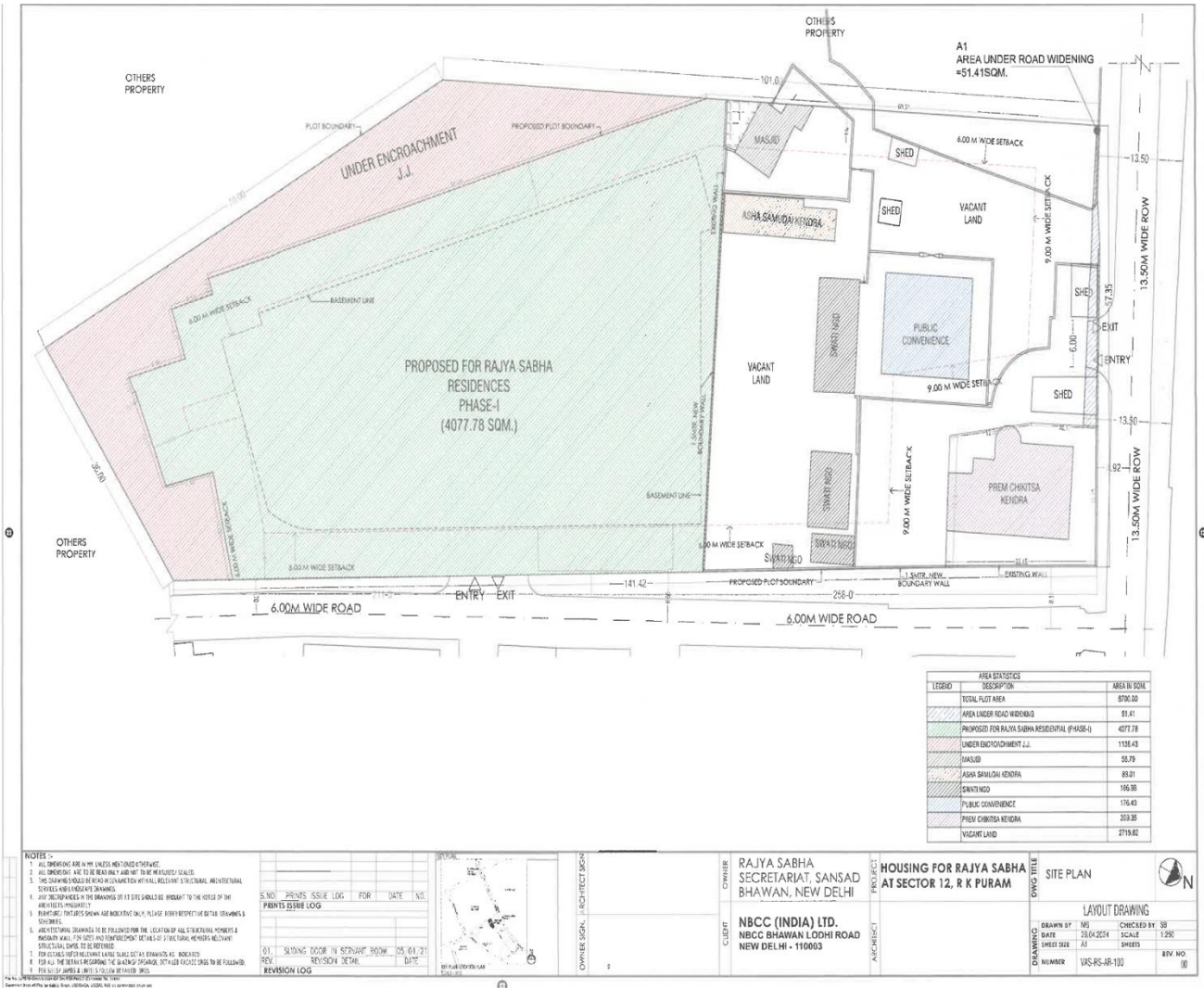
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18. It is clear from the above pictures, that the single room which was initially allotted to the Appellant Trust has been expanded, albeit with permission and there is substantial construction also in the form of temporary sheds which have been put up. This occupation of the allotted land is itself beyond the licence which was granted to the Appellant Trust, though the same was permitted with the clear understanding that the same would be purely temporary and would be removed.

19. The Court has also considered the site plan, which is on record, which would show that even if the *jhuggis* continue to remain in the border of the subject land, the presence of the Appellant Trust's NGO is causing substantial difficulty for the Rajya Sabha Secretariat, inasmuch as, the occupation of the subject land by the Appellant is substantial. The said site plan is set out below:



20. Considering the above, even if the pink area in the border, remains in the occupation of the *jhuggis* or *the Basti*, the Appellant cannot have any justification in continuing to occupy one room, now the expanded portion in a large part of the land - thereby, in effect creating a hindrance for the Rajya Sabha Secretariat in using the land allotted in its favour by DUSIB. In the opinion of this Court, the Appellant Trust ought to vacate the allotted land immediately.

21. Mr. Raj Shekhar Rao, Ld. Senior Counsel appearing for the Appellant



Trust submits that similar to the Basti Vikas Kendra (hereinafter “*BVK*”) namely M/s Ashutosh Davar Trust, which was allotted land in Dayal Singh Colony, which was an alternate site, the Appellant also ought to be given the Mahiwal Camp, which is located across the road from the Kanak Durga Basti, which was also explored in 2022.

22. Insofar as giving of any alternate site is concerned, the same is purely within the domain of DUSIB and the L&DO. The Appellant Trust’s NGO which was operating for the purposes of the *Kanak Durga Basti*, as a licensee, cannot claim any rights of alternate land over a particular land of its choosing. The circumstances that led to the allotment of alternate land to the M/s Ashutosh Davar Trust, are not before the Court. The Appellant cannot claim parity as a matter of right, especially when the initial terms of allotment are crystal clear that it is merely a licensee. The Appellant Trust may have rendered good services for the children in the Basti but the land is Government land and now stands allotted to the Rajya Sabha Secretariat. As per submissions made today, it is clear that the Secretariat is unable to utilise the land for its own purposes, in view of the presence of the Appellant.

23. In the above background, it is directed that the Appellant Trust’s case shall be considered by the DUSIB and L&DO for the purposes of allotment of some other premises in some *Basti*. The said decision shall also be taken within three months.

24. However, the alternate allotment, shall not hold up the handing over of the present premises to the authorities. Accordingly, considering that the Trust has been in possession for several years, as requested on behalf of the Appellant by Mr. Rao, it is directed that the Appellant Trust shall hand over the vacant and peaceful possession of the allotted land at Kanak Durga Basti,



2025:DHC:3147-DB



R.K. Puram, Delhi by 30th June, 2025. If the same is not handed over, post 30th June 2025, DUSIB / Rajya Sabha Secretariat, are free to take over the possession of the said land.

25. The appeal stands disposed of in above terms. Pending applications also stand disposed of.

PRAITHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 28, 2025/SV/msh