

Kamaljeet Bajwa & Ors vs Government Of Nct Of Delhi & Ors on 1 November, 2022

Author: Satish Chandra Sharma

Bench: Chief Justice, Subramonium Prasad

\$~29 & 31

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LPA 609/2022

KAMALJEET BAJWA & ORS.

..... Appellan

Through: Mr. Tanmaya Mehta with Mr. Vina
Kumar Dubey, Mr. Vedant Singh,
Vishisht Singh, Mr. Prateek Tiw
Ms. Richa Goel, Ms. Anushka Gup
Advocates

versus

GOVERNMENT OF NCT OF DELHI & ORS.

..... Responde

Through: Ms. Hetu Arora Sethi, ASC for
GNCTD
Mr. Arun Birbal, Mr. Sanjay Sin
Advocates for DDA

+ LPA 618/2022

KAMALJEET BAJWA & ORS.

..... Appellan

Through: Mr. Tanmaya Mehta with Mr. Vina
Kumar Dubey, Mr. Vedant Singh,
Vishisht Singh, Mr. Prateek Tiw
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Advocates

versus

GOVERNMENT OF NCT OF DELHI & ORS.

..... Responde

Through: Mr. Sameer Vashisht, ASC for
GNCTD with Ms. Sanjana Nangia,
Advocate
Mr. Arun Birbal, Mr. Sanjay Sin
Advocates for DDA

Signature Not Verified

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By:RAHUL SINGH

Signing Date:04.11.2022

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LPA 609/2022 etc.

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CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
ORDER

% 01.11.2022 CM APPL. 46225/2022 (Exemption) CM APPL. 46524/2022 (Exemption) Allowed, subject to all just exceptions.

LPA 609/2022 & CM APPLs. 46224/2022 , 46226-27/2022 LPA 618/2022 & CM APPLs. 46523/2022 & 46525-27/2022

1. LPA 609/2022 arises out of Order dated 19.07.2022, passed by the learned Single Judge in W.P.(C) 10851/2022.

2. LPA 618/2022 arises out of Orders dated 08.09.2020 and 24.05.2022 passed by the learned Single Judge in W.P.(C) 6916/2018.

3. The contention of the learned Counsel for the Appellant is that the land, which is the subject matter of the instant LPA, was acquired by the State Government and subsequently handed over to the Delhi Development Authority (DDA) on 25.05.1971. He states that shops had been constructed over the land in question by the DDA and the Appellants herein and their predecessors purchased the said shops from DDA by way of an open public auction. He, therefore, submits that the Appellants herein are the bona fide purchasers of the shops.

4. The learned Counsel for the Appellant has further submitted that after a lapse of 50 years, Respondent No.3 herein, i.e. M/s. Padmavati Investment Ltd, filed a Writ Petition, being W.P.(C) 6916/2018, praying for directions to the Government to release the approved Demarcation Report and approved Demarcation Plan with respect to the land in question, as well as to carry out physical demarcation of the land in question. Consequently, the learned Single Judge, vide impugned Order dated 08.09.2020, has directed for demarcation of the land in question. The Writ Petition was disposed of vide the impugned Order dated 24.05.2022 with a directions to the Respondents herein for the fixing pillars on the boundaries as per the demarcation within a period of four weeks from the date of that Order.

5. It has been stated that the Appellants herein filed a Writ Petition, being W.P.(C) 10851/2022, praying for quashing of Demarcation Report dated 23.04.2022 in respect of the land in question and the learned Single Judge, vide impugned Order dated 19.07.2022, disposed of the said Writ Petition with liberty to the Appellants herein to file an appropriate representation/application along with the copy of the said Order before the SDM of Hauz Khas, Mehrauli Badarpur Road, Saket, New Delhi.

6. It has been submitted by the learned Counsel for the Appellants that the Appellants herein were not made a party to W.P.(C) 6916/2018 and the Order of demarcation was passed without their knowledge, behind their backs. He states that demarcation of the land in question, at this stage, is impermissible in law as the Appellants herein are the bona fide purchasers of the shops which have been constructed over the land in question.

7. Issue Notice.

8. Learned Counsels for the GNCTD and the DDA accepts notice.

9. On Appellants' taking steps, let notice be served on the Respondents No.3 & 4 through all permissible modes, including Dasti.

10. It has been submitted by the learned Counsel for the DDA that no counter affidavit was filed by the DDA in W.P.(C) 6916/2018 otherwise the DDA would have clarified the position in respect of the land in question.

11. Keeping in view the fact that the Appellants herein have been in possession of the shops which have been constructed over the land in question since 1986, the parties are directed to maintain status quo.

12. List on 09.03.2023.

SATISH CHANDRA SHARMA, CJ SUBRAMONIUM PRASAD, J NOVEMBER 01, 2022 Rahul/RR