

Navin Goel vs Delhi Development Authority And Ors on 11 January, 2019

Author: S. Muralidhar

Bench: S. Muralidhar, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 11159/2017

NAVIN GOEL Petitioner

Through: Mr. Daleep Dhayani, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents

Through: Mr. Jayendra, Advocate with Mr.
Shailesh Tiwari, Advocate for
Respondent No. 1/DDA.

Mr. Mayank Bamniyal, Advocate for
Respondent No.5.

Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

+ W.P.(C) 11160/2017

SMT. KRITI GARG Petitioner

Through: Mr. Daleep Dhayani, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents

Through: Mr. Arun Birbal, Advocate with Mr.
Ajay Birbal, Advocate for DDA.

Mr. Amish Dabas, Advocate for
Respondent No. 3.

Mr. Rajneesh Sharma, Advocate for
LAC/L&B.

Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

W.P.(C) 11159/2017& Connected matters

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+ W.P.(C) 11168/2017

SMT. SUNITA KATARIA Petitioner

Through: Mr. Daleep Dhayani, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents

Through: Mr. Arun Birbal, Advocate with Mr.
Ajay Birbal, Advocate for DDA
Mr. Jayendra, Advocate with Mr.
Shailesh Tiwari, Advocate for
Respondent No.1/DDA.
Mr. Abhinav Singh, Advocate with
Mr. Vinod Kr. Goyal, Advocate for
GNCT.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

+
KALI RAM

W.P.(C) 11181/2017

..... Petitioner

Through: Mr. Daleep Dhayani, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents

Through: Mr. Jayendra, Advocate with Mr.
Shailesh Tiwari, Advocate for
Respondent No. 1/DDA.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

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W.P.(C) 11183/2017

W.P.(C) 11159/2017& Connected matters

SHYAM SUNDER GOYAL AND ANR.

..... Petitioners

Through: Mr. Daleep Dhayani, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents

Through: Mrs. Abha Malhotra, Advocate for
DDA, Respondent No.1.
Mr. Sanjay Kumar Pathak, Advocate
with Mr. Sunil Kumar Jha and Mr.
M.S. Akhtar, Advocates for
LAC/L&B/GNCTD.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

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+ W.P.(C) 11184/2017
SMT. KAMLESH RANI Petitioner
Through: Mr. Daleep Dhayani, Advocate.
versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents
Through: Mr. Ajay Verma, Senior Standing
Counsel with Ms. AAKanksha Kaul,
Ms. Shruti Dixit and Mr. Sumit
Mishra, Advocate for Respondent
No.1/DDA.
Ms. Ruchika Rathi, Advocate with
Mr. Karanjot Singh, Advocate for
Respondent No.2.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

W.P.(C) 11159/2017& Connected matters Page 3 of 8
+ W.P.(C) 11197/2017
SMT. SHURTI GARG Petitioner
Through: Mr. Daleep Dhayani, Advocate.
versus

DELHI DEVELOPMENT AUTHORITY AND ORS Respondents
Through: Mr. Arun Birbal, Advocate with Mr.
Ajay Birbal, Advocate for DDA
Mr. Raghvendra Pandey, Advocate
for Respondent No.3.
Mr. B. Mahaptra, Advocate for LAC.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

+ W.P.(C) 11206/2017
GULSHAN KUMAR Petitioner
Through: Mr. Daleep Dhayani, Advocate.
versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents
Through: Mrs. Abha Malhotra, Advocate for
DDA, Respondent No.1.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

With

+
SIYA RAM GUPTA

W.P. (C) 29/2018

..... Petitioner

W.P.(C) 11159/2017& Connected matters

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Through: Mr. Daleep Dhayani, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents

Through: Mr. Arun Birbal, Advocate with Mr.
Ajay Birbal, Advocate for DDA
Mr. Abhinav Sharma, Advocate for
Respondent No.2/GNCTD.
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

And

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SMT. SEEMA

W.P. (C) 273/2018 & C.M. No. 1107/2018

..... Petitioner

Through: Mr. Daleep Dhayani, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS. Respondents

Through: Mr. Arun Birbal, Advocate with Mr.
Ajay Birbal, Advocate for DDA
Mr. Yeeshu Jain, Advocate with Ms.
Jyoti Tyagi, Advocate for L&B/LAC.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER

% 11.01.2019

1. All these petitions arise from a common set of facts and seek similar reliefs and are therefore being disposed of by this common judgment. These petitions were, however, heard independently.
2. Illustratively, the facts in the first petition W.P. (C) 11159 of 2017 are set out. The prayer in the said petition reads as under:

(a) declare the acquisition proceedings qua the land of the Petitioners falling in Plot No. 46-B(part of Khasra No. 28/7) situated at Harijan Basti, Sanjay Nagar, area of

Village Mangolpur Kalan, Delhi 110083 as having lapsed in terms of Section 24(2) of the Act 2013."

3. The facts as narrated in the petition are that the Gaon Sabha, Mangolpur Kalan allotted the land in question to the predecessor-in-interest under the 20 Point Programme. In the said programme every allottee was granted lease by issuing LR Form 37 in the year 1974. It is claimed that since then, the predecessor-in-interest of the Petitioner was in possession and right now, the Petitioner continues to remain in "peaceful possession till date".

4. The certificate issued by the Gaon Sabha has been enclosed by the Petitioner along with the "true copies of the chain of documents". This chain of documents is, in fact, a copy of the notification dated 24th October, 1961 issued under Section 4 of the Land Acquisition Act, 1894 (LAA), a copy of the declaration dated 20th July, 1966 under Section 6 of LAA as well as a copy of the Award dated 23rd April, 1980. It also includes the communication dated 22nd January, 1983 of the Lt. Governor, Delhi addressed to the Vice-Chairman, DDA stating that it had come to his notice that some of the lands so allotted under the 20-Point Programme had been taken over by the DDA and that the same should be returned "to the development department for allotment in favour of eligible allottees."

5. In response to the petition, a counter affidavit has been filed by the LAC (North West) stating that the Petitioner was not the original allottee but instead was a subsequent purchaser on the basis of an Agreement to Sell dated 20th February, 1995. It is pointed out that the Gaon Sabha allotted 100 sq. yards towards Shyam Lal son of Matoo on this basis for 99 years vide letter dated 2nd July, 1974 for construction of residential house. The said Shyam Lal executed the Agreement to Sell in favour of one Ved Prakash in November, 1984. The said Ved Prakash executed the General Power of Attorney in favour of one Sh. Atma Ram Goel. However, how the Petitioner thereafter came in possession of the land in question is not clear.

6. It is pointed out that the allotment of the land in favour of Shyam Lal was under the 20-Point Programme and Shyam Lal was not entitled to sell the property. It is categorically averred that "the sale of plots allotted under the 20-Point Programme is ab initio void, the petitioner cannot derive any right, title or interest in the said plot nor can challenge the acquisition proceeding in the present writ petition."

7. It is further submitted that as far as the land acquisition proceedings are concerned, the compensation was assessed in the name of the Gaon Sabha and was remitted to the Reference Court under Section 30-31 of Act, 1894 way back on 29th January, 1981.

8. The above counter affidavit was filed on 3rd April, 2018 and till date no rejoinder has been filed by the Petitioners to contradict the above facts. A separate counter affidavit has been filed by the Delhi Development Authority (DDA) confirming that the lands in question were originally allotted to landless persons on lease basis under the 20-Point Programme. Enclosed with the affidavit of the DDA are stamped copies of the documents in terms of which the allotment was made.

9. The facts in each of the other petitions forming part of this batch is no different. It is seen that in each case the original allotment was on lease basis for the limited period of 9 years and for sums as little as Rs. 2 paisa per square yards per year. Clearly the allottees who got the land on lease basis for a limited tenure could not have transferred ownership, title or any right whatsoever to any subsequent 'purchaser'. The very basis of the present petitions has no sanctity in the eye of law as the Petitioners cannot claim any right or title or interest to the respective lands claimed to be in their possession. Therefore, the question of granting reliefs prayed for by any of these petitions in terms of the 2013 Act does not arise.

10. The petitions are accordingly dismissed. The interim order dated 3rd January 2018 stands vacated. The pending applications are also dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 11, 2019 ss