

M/S. Palash Building Solutions Ltd. & ... vs Government Of Nct Of Delhi Department Of ... on 10 November, 2020

Author: Najmi Waziri

Bench: Najmi Waziri

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 8892/2020
M/S. PALASH BUILDING SOLUTIONS LTD. & ANR.

Through: Mr. Mudit Sharma,
Dhingra, Ms. Bhav
Bhrigu Dhami, Adv

versus

GOVERNMENT OF NCT OF DELHI DEPARTMENT OF
REVENUE & ORS. Respond
Through: Mr. Ramesh Singh, SC for GNCT
with Ms. Mrinalini Sen Gupta
Mr. Tanmay Yadav, Advocates.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI
ORDER

% 10.11.2020 The hearing was conducted through video conferencing.

1. This petition, inter alia, seeks the following reliefs:

"a. Issue a direction to the Sub-Registrar to Register the sale deed dated 26.02.2013 presented on 28.02.2013 vide proofing Nos 2646 and 2651 and thereafter release the same to the Petitioners;

b. Set aside the orders dated 03.09.2020 passed by the Deputy Commissioner, Kapashera, South- West Delhi in Appeal No1/11/2020 and;

c. Set aside the orders dated 14.08.2020 of Sub-Registrar IX refusing to register the sale deeds presented on 28.02.2013 vide proofing No.2651 and 2646."

2. The petitioners are aggrieved by the order dated 14.08.2020 passed by the Sub-Registrar, South West Delhi and the order dated 03.09.2020 of the Collector, South West Delhi, declining the registration of transfer documents of properties in the land area admeasuring 35 Bigha, 11 Biswa bearing Khasra Nos. 7/12/2(0-12), 13(4-16), 18(4-

16), 7/3(1-6), 8/1(0-2), 248(21-0) and also in land area measuring 15 Bigha, 14 Biswa bearing Khasra No.s 7/23/2(1-4), 11/3/2(1-8), 8/2(1-

7), 241(0-4), 242(11-1) situated in the revenue estate of village Samaspur (Samashpur) Khalsa, Tehsil Najafgarh, New Delhi- 110

3. The learned counsel for the petitioner states that the impugned orders proceeded on the premise that the sale deeds were with respect to agricultural land as of 28.02.2013, hence the Delhi Land Reforms Act, 1954, would be applicable. However, they have not taken into consideration the subsequent notification dated 16.05.2017 which, under section 507 of the DMC Act, 1957, had notified Village Samaspur Khalsa as urbanised area. In the circumstances, the DMC Act will be applicable and the DLR Act ceases to operate in the said Village. Accordingly, the impugned order dated 14.08.2020 directing the petitioners to get an NOC under the Delhi Lands (Restrictions on Transfer) Act, 1972, would be inapplicable.

4. It is settled law that once the land is urbanised, the DLR Act will not be applicable¹. The petitioner's contentions are valid.

5. The learned counsel for the petitioners relies upon the dicta of this *Trikha Ram Vs. Sahib Ram*, Civil Revision Appeal No. 373 of 1995, decided on 01.10.1997 Court in W.P.(C) 9541/2006, in which it was held, inter alia, as under:

"1. The writ petitioner seeks for a direction to the respondent Sub-Registrar for registering a gift deed in 22/02/05. It is claimed that in accordance with the provisions of Delhi Land (Registration of Transfer) of Lands Act, 1972, No-Objection Certificate was applied and was granted on 26/05/05. The petitioner claims to have executed the gift deed; the donee of the deed is respondent No.3.

2. In the counter affidavit the respondent No.1 has contested that the petitioner applied or presented the deed for registration as averred. Counsel has, during the course of hearing also submitted that the certificate relied upon in terms of the Act is not specific; it is unclear as to whether the lands have been acquired. It was also claimed that the four months period within which document has to be registered in terms of the Registration Act has expired.

3. This Court in WP (C) No. 2609-01/06 had, in almost identical circumstances, while dealing with the sale deed dated 22/06/05, observed as follows:

I may note that the respondent No.1 is requiring persons to obtain certificates from the revenue authorities that the land subject matter of sale deed submitted for registration is not under acquisition. From where this power is being exercised by respondent No. 1 is not forthcoming on record in any proceedings. Respondent No. 1 seems to be under a mistaken belief that wherever agricultural land is sold, a no objection certificate is required under the Delhi Land (Registration of Transfer) Act,

1972.

For future guidance of respondent No.1, I may note that it's concern is not with the issue whether the lands are under acquisition or not. Needless to state, if somebody obtains a sale deed in respect of land · which is under acquisition, the same would be hit by the Delhi Land (Registration of Transfer) Act, 1972. Meaning thereby, that the purchaser would not be entitled to predicate any claim under the sale deed.

With the clarification aforesaid, I issue a mandamus to respondent No. 1 to forthwith register the sale deed presented to him for registration by the petitioners. All other formalities being complied with, post registration, sale deed he returned to the petitioners within a period of 4 weeks from today.?

...."

6. Mr. Ramesh Singh, the learned Standing Counsel for GNCTD, submits that under section 77 of the Registration Act, the petitioners ought to have initiated appropriate remedies within 30 days of the passing of the impugned orders.

7. However, the applicability of limitation, as imposed under various statutes, has been kept in abeyance during the pandemic period till further orders by the Supreme Court's order dated 23.03.2020 in *Suo Motu W.P.(C) No(s). 3/2020*. Therefore, the aforesaid argument is untenable.

8. That being the position, the impugned orders have clearly erred, both on facts and in law. In the circumstances, the order of the Sub- Registrar dated 14.08.2020 and the order dated 03.09.2020 of the Collector, South West, are set aside. The Sub-Registrar is directed to proceed with the registration de hors the aforesaid requirement for NOC, provided the documents are otherwise in order.

9. The writ petition is disposed-off in terms of the above.

10. The order be uploaded on the website forthwith.

NAJMI WAZIRI, J NOVEMBER 10, 2020/AB