

# Delhi Development Authority vs M/S Badarpur Traders Union on 18 June, 2020

**Author: V. Kameswar Rao**

**Bench: V. Kameswar Rao**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CS(OS) 145/2020, IAs 4586/2020 & 4587/2020  
DELHI DEVELOPMENT AUTHORITY

..... Plaintiff

Through: Mr. Rajiv Bansal, Sr. Adv.  
with Mr. Arjun Pant &  
Mr. Faisal Naseem, Advs.

versus

M/S BADARPUR TRADERS UNION

..... Defendant

Through:

CORAM:  
HON'BLE MR. JUSTICE V. KAMESWAR RAO  
ORDER

% 18.06.2020 This matter is being heard through video-conferencing. IA 4587/2020 (by plaintiff seeking exemption from filing the originals /true typed copy of dim/proper margin/ underline/ single line spacing of the annexures) For the reasons stated in the application, the same is allowed and plaintiff is exempted from filing the originals/true typed copy of dim/proper margin/ underline/ single line spacing of the annexures. Application is disposed of.

CS(OS) 145/2020 Summons be issued in the suit to the defendant returnable before Joint Registrar on August 20, 2020.

Summons shall state that the written statement shall be filed by the defendant within 30 days from the date of receipt of summons. The defendant shall file its affidavit of admission and denial of documents filed by the plaintiff.

Replication shall be filed within 30 days of the receipt of the written statement / documents. The replication shall be accompanied by the affidavit of admission denial of documents filed on behalf of the defendant. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time lines. IA 4586/2020 (under Order XXXIX Rule 1 & 2 CPC)

1. Issue notice to the defendant on the application, returnable on 6th August, 2020.

2. It is stated by the plaintiff and also contended by Mr. Rajiv Bansal, Ld. Sr. Counsel for the plaintiff that the present suit has been filed seeking cancellation of Regularization cum-demand letter dated June 14, 2017 issued by the plaintiff in favour of the defendant and a Perpetual Lease Deed dated December 15, 2017 executed by the Plaintiff in favour of the defendant with respect to the Suit Land, the same is illegal, null and void, and liable to be cancelled on the following grounds:

(i) Firstly, neither the Regularization-cum-demand letter dated June 14, 2017 nor the Perpetual Lease Deed dated December 15, 2017 should have been executed considering that the matter is pending adjudication before this Court in CWP No. 5424/2008.

There was no order of this Court to execute the Lease Deed and no permission either was sought from this Court prior to the issuance of Regularization cum- demand letter dated June 14, 2017 and execution of lease deed dated December 15, 2017. The plaintiff has already initiated Vigilance Enquiry against its various Officers and appropriate action in this regard shall be taken in due course.

(ii) Secondly, the second recital of the aforesaid lease deed states that: "Whereas by an agreement dated the 15th day of December 2017 made between the parties hereto the Lessor granted a licence to the Lessee to enter upon the piece of land....". This proposition is factually incorrect. As per the first recital of lease deed, the President of India is the Lessor through DDA, and as per the facts of the case DDA i.e. the plaintiff herein never granted any licence in favour of the defendant herein. It was the Delhi Administration which granted a temporary licence in favour of the defendant herein which has already been held by the Court to have already been revoked.

(iii) Thirdly, there is neither any schedule of property attached with the lease deed nor the property sought to be leased is properly identified in the lease deed. There has to be a complete description of property which is the subject matter of the agreement.

(iv) Fourthly, there are un-attested and un-filled blanks in the lease deed, which further renders it voidable being ambiguous. He draws my attention to one of the un-filled blanks pertains to approval of layout plan. He submitted that there is no approved layout plan for 3.69 acres of land, referred to in the lease deed. Thus, the lease deed has been executed without the approval of layout plan of the land parcel.

(v) Fifthly, the parties have not attested with their signatures or initials such blanks as per the provision of Section 20 of the Registration Act, 1908.

(vi) Sixthly, the aforesaid Perpetual Lease in question is in blatant violation of the Nazul Rules, 1981. He submitted the format of this lease has been borrowed from Form A in the Schedule to the DDA (Disposal of Developed Nazul Land) Rules 1981 which is prescribed as per Rule 23 for cases where land is allotted to Cooperative Societies, in accordance with Rule 21 read with Rule 6(vi). However, according to him, the present case is the case of a lease of in-situ allotment of commercial land to body registered under the Trade Unions Act, 1926 involving further sub-lease in favour of its

members, which is not provided in the Nazul Rules, 1981. Hence prior approval of Competent Authority i.e. Ministry of Housing and Urban Affairs was required as per Rule 42 and 45 of said Nazul Rules, 1981 along with corresponding approval for format of lease that may be executed in such cases. But in the present case, no such approval had been sought prior to issuance of Regularization-cum- demand letter dated June 14, 2017 and execution of Lease Deed dated December 15, 2017. He stated that the piece of land prevailing at the time of communication of the letter of allotment is the rate payable by an allottee of land. Thus, the price of land prevailing at the time of communication of approval of allotment was to be charged, if prior approval would have been sought from the Ministry of Housing and Urban Affairs. According to him, vide Allotment-cum- Demand letter dated June 30, 2008, the Land admeasuring 39082 Sqm. was allotted by the Plaintiff herein on permanent basis at Tughlakabad for construction of Viaduct of Central Secretariat- Badarpur Corridor of MRTS Project Phase-II at the rate of Rs. 74.42 Lakhs per Acre.

3. Having heard Mr. Rajiv Bansal, Ld. Sr. Counsel for the plaintiff and perused the record, this Court is of the view that the plaintiff has made out a prima facie case and the balance of convenience is also in favour of the plaintiff. Accordingly, the defendant, its agents, assignees, representatives, nominees or anyone claiming through / under it, are restrained from transferring, alienating, letting out, parting with or otherwise creating any third party interest in respect of the suit land, more particularly described in the site plan (at page 7 of the documents file) till the next date of hearing.

4. Order XXXIX Rule 3 be complied with within three weeks from today.

Order dasti.

V. KAMESWAR RAO, J JUNE 18, 2020/ak