

Shakarpur Slum Union vs Dda And Ors on 20 July, 2021

Author: Najmi Waziri

Bench: Najmi Waziri

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6779/2021

SHAKARPUR SLUM UNION

.....Pet

Through: Ms Kawalpreet Kaur and Mr
Ali, Advocates.

versus

DDA AND ORS

Through: Ms Prabhsahay Kaur,
Mr Nitin Jain, Adv

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 20.07.2021 The hearing was conducted through video conferencing. CM APPL. 21361/2021 (exemption)

1. Allowed, subject to all just exceptions.

2. The application stands disposed-off.

W.P.(C) 6779/2021 & CM APPL. 21360/2021 (interim relief)

3. Issue notice. Notice is accepted by the learned counsel named above for the respondents.

4. The petitioner, a union of slum dwellers, is aggrieved by the demolition of their hutments, i.e. shanties or jhuggi jhopri clusters ('JJ clusters') by the Delhi Development Authority ('DDA') without prior notice. They claim to have been residents in the said JJ cluster for over a decade and a half and claim to possess valid documents to prove such residence. They rely upon ration cards, Aadhaar cards, bank pass books, and other documents to show that they have been in situ for the past several years; some of them possibly before the cut-off date under The National Capital of Delhi Laws (Special Provisions) Act, 2011, while some claim rights before 01.01.2015. Both groups claim to be beneficiaries under the DUSIB's Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015.

5. The petitioner relies upon the strict procedure laid down by a Division Bench of this court in Ajay Maken & Ors. v Union of India & Ors (2019) 260 DLT 581. Para 171 of the said judgment reads as under:

"...171. While the 2015 Policy lays down a framework in terms of the decisions in Sudama Singh for the authorities to follow if they propose to undertake eviction of slum dwellers for any reason, even for those JJ clusters and jhuggis which are situated on the land of the Central Government, including those entrusted to the Railways, where the Central Government or the Railways seeks to take action independent of the DUSIB, the basic elements of that framework would certainly apply. The decision in Sudama Singh is binding on all agencies including the Central Government and the Railways. In sum, it is not as if only the JJ clusters and jhuggi dwellers in the 675 JJ clusters entrusted to the DUSIB that are required to be dealt with in terms of the decision in Sudama Singh but every jhuggi dweller, anywhere in the NCT of Delhi, has to be dealt with in terms of the said decision. In effect, therefore, no slum dweller in the NCT of Delhi in one area can be treated differently from that in another..."

6. It is the petitioner's case that they could not and remaining cannot be removed from the site without due process of law, as has been directed in Ajay Maken. The petitioner submits that the directions for the process prior to eviction from JJ cluster sites is mandatory for all agencies/authorities who seek to carry out such eviction; that the issue was dealt with by the National Green Tribunal ('NGT'), in its orders dated 02.02.2021 and 03.03.2021 in M.A. Nos. 07/2021 and 09/2021 respectively, wherein the NGT clarified that it is was concerned with the rejuvenation of the river Yamuna and that the catchment area, i.e. the flood plains, should be freed from encroachment. However, there is no observation in its aforesaid orders apropos the directions issued by this Court in Ajay Maken (supra). The learned counsel for the petitioner submits that the said mandatory procedure and caution directed by the Division Bench, it has to be complied with.

7. The learned Standing Counsel for the DDA submits that from the issue was considered by this Court in W.P.(C) 10900/2019 but in an LPA against order dated 14.10.2019 the Division Bench's 24.10.2019, the relief of stay that had been granted was put in abeyance. However, from the said proceedings it is not seen as to whether the mandatory directions issued in Ajay Maken (supra) were brought to the notice of the Court or were discussed.

8. The learned counsel for the petitioner refers to and relies upon a list of JJ clusters prepared by DUSIB; such clusters would be entitled to benefits under the aforesaid 2015 policy. In the said list of 675 slum clusters, the members of the petitioner-Union claim to be residents of clusters listed at serial numbers 553 and 569. The said entries are as under:

9. There are 184 households that have been identified in the Ramesh Park cluster, i.e. serial number 553, whereas 593 households have been identified in the Lalita Park cluster, i.e. serial number 569. The petitioner seeks protection on the basis of finding place in the aforesaid list.

10. The learned Standing Counsel for DDA submits that they do not fall under the said list.

11. Let the petitioner file documents to show that they fall under the aforesaid list of JJ Clusters and therefore they have the protection under Ajay Maken.

12.The DDA too shall file documents to show that the residents of the Ramesh Park and Lalita Park JJ Clusters, at entries 553 and 569 respectively, who have the protection of the 2015 policy for not being evicted.

13.The learned Standing Counsel for DDA further submits that the petitioners are aggrieved by demolition and eviction from lands owned by the State of Uttar Pradesh. in the NCT of Delhi. She states that the DDA has a Memorandum of Understanding with the State of U.P for development of the said land. Therefore, she submits that the State of U.P. through its Irrigation and Water Resources Department would be a necessary party. Accordingly, the State of U.P. through its Irrigation and Water Resources Department is impleaded as R-4. Let the amended memo of parties be filed by the petitioner within four days.

14.Issue notice to R-4, through Mr. Anil Mittal, Advocate, as well. The learned counsel for the parties assures the Court that they will also intimate Mr. Anil Mittal of these proceedings. An e-copy of the petition be also served upon him through e-mail during the course of the day.

15. The learned counsel for DUSIB submits that the aforesaid list was prepared on the basis of a survey carried out between the 2010 and 2015. Let DUSIB file relevant documents within a week, supported by an affidavit, to show which JJ clusters were identified/included and/or are otherwise protected from demolition, as per its survey.

16.The petitioner too shall file, within a week, a list of hutments/jj's seeking protection under the aforesaid list, along with a site plan of their in situ location.

17.At joint request, renotify on 28.07.2021.

18.The order be uploaded on the website forthwith.

NAJMI WAZIRI, J JULY 20, 2021/rd