

Gurmeet Singh vs Delhi Metro Rail Corporation Ltd on 3 April, 2025

Author: Tushar Rao Gedela

Bench: Tushar Rao Gedela

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 20.02.202

Judgment delivered on: 03.04.20

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LPA 644/2019 & CM APPL. 43952/2019
GURMEET SINGH

Through: Mr.Sanjeev Kumar Dubey, S
with Mr.Shah Rukh Khan an
Ms.Hemangi Tripathi, Adv

Versus

DELHI METRO RAIL CORPORATION LTD

Through: Mr.Pushkar Sood, SPC for
and Mr.Rahul Bharati, Adv

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

DEVENDRA KUMAR UPADHYAYA, C.J.

1. This intra-court appeal assails the judgment dated 01.07.2019 passed by the learned Single Judge whereby the writ petition filed by the appellant/petitioner, namely, W.P.(C) 1023/2012 has been dismissed and the prayer for allotment of shop under the policy of the Relocation and Rehabilitation of the Project Affected Persons of all categories due to implementation of Delhi MRTS Project (hereinafter referred to as „the Rehabilitation Policy) embodied in the circular dated 25.10.2006 issued by the Land & Building Department, Government of NCT of Delhi, has not

2. By instituting the aforesaid writ petition before the learned Single Judge, the petitioner had prayed that a direction be issued to rehabilitate him under the Rehabilitation Policy and further quash the letter dated 08.06.2011 issued by the Chief Engineer/PD of Delhi Metro Rail Corporation Limited (hereinafter referred to as „DMRC) whereby the appellant/petitioner was required to substantiate his right by way of appropriate legal proceedings in respect of ownership of shop no. 145-A, situated at Panchkuian Road.

3. Delhi Mass Rapid Transit System („MRTS) Project was undertaken for the construction of Metro Line-III, whereafter the Municipal Corporation of Delhi (hereinafter referred to as the „MCD) conducted a survey to ascertain the Project Affected Persons (hereinafter referred to as the „PAPs).

4. A notice was issued to the shopkeepers including the appellant/petitioner at Panchkuian Road, who were likely to be affected by MRTS Project, on 25.08.2005 stating therein that the Government has decided to relocate all the shops on Panchkuian Road from Sucheta Kriplani Main Gate to Palika Place at Bhai Veer Singh Marg. The notice further stated that the shops at Bhai Veer Singh Marg were ready for allotment and that the shops shall be allotted to those shopkeepers who were able to produce the documents for running the shop at Panchkuian Road and further that the allotment shall be made through draw of lots on payment of cost. The notice dated 25.08.2005 further required the shopkeepers to submit the data sheet along with supporting documents by 05.09.2005. The notice also stipulated that in case the data sheet along with supporting documents is not submitted, it shall be presumed that the shopkeeper concerned was not interested in rehabilitation. Through the said notice, it was also informed that the shops were planned for demolition by 30.09.2005 for widening/provision of road/service lane/footpath.

5. Challenging the said notice and impending eviction and demolition of shops, W.P.(C) 18287-391/2005 and W.P.(C) 17190-270/2005 were filed before this Court, which were allowed by the learned Single Judge by means of the judgment and order dated 02.06.2006, observing therein, inter alia, that the shopkeepers cannot forcibly be ejected except in accordance with law.

6. The judgment and order dated 02.06.2006, passed by learned Single Judge in the aforesaid two writ petitions, was subjected to challenge in LPA 1609/2006 and LPA 1653/2006 filed by the DMRC. Two other intra-court appeals, namely, LPA 1218/2007 and LPA 1255/2007 against the said judgment dated 02.06.2006, were preferred by the MCD. The said LPAs were connected along with certain other writ petitions.

7. During the pendency of LPA 1653/2006 along with other connected petitions, an offer was made by the DMRC that a lease for 30 years to all license holders for an alternate shop, although their licenses had been terminated, shall be granted. The offer so made was recorded by this Court. DMRC contends that it has always been its stand that only license holders of civic agencies would be granted alternative shops at concessional rates and further that DMRC does not have any legal obligation to grant alternate shops to the appellant/petitioner since he is not a license holder.

8. On 25.10.2006, the Land and Building Department, Government of NCT of Delhi, issued a circular dated 25.10.2006, which embodies certain decisions including the decision by the Hon ble Lt. Governor, Delhi approving the Relocation and Rehabilitation Policy in respect of the PAP of all categories due to implementation of Delhi MRTS Project as per Annexure-1 enclosed to the said circular. Annexure-1 enclosed with the circular dated 25.10.2006, inter alia provided for eligibility conditions for being covered under the Relocation and Rehabilitation Policy. The said eligibility conditions are contained in Clause 1 of the said annexure which is reproduced here under:-

"RELOCATION & REHABILITATION POLICY IN RESPECT OF THE PROJECT AFFECTED PERSONS OF ALL CATEGORIES DUE I TO THE IMPLEMENTATION OF DELHI MRTS PROJECTS.

(1) Eligibility conditions for being covered under Relocation and Rehabilitation Policy.

(a) The guidelines on Relocation and Rehabilitation Policy for Project Affected Persons will be uniformly applicable for all phases of MRTS Project.

(b) Those whose shops/residence or workshops/industrial units got affected in such a manner that they have to leave the said premises. In case of premises where only small part, (less than 50%) has been taken and the occupant, continues to reside/work from there, will not be eligible for rehabilitation under this scheme.

(c) In case of shops, the persons doing business whether he is the owner of land or the tenant will be eligible.

(d) In case of premises being used as residential units the rehabilitation will take place only in case of owner residing there. The tenants will not be eligible under the scheme.

(e) The treatment in respect of workshops/industrial units would be the same as those of industrial shops indicated above."

9. DMRC thereafter, vide its letter dated 13.11.2009, informed the shopkeepers, which included the appellant/petitioner as well, of the proposal to allot alternate shops at Bhai Veer Singh Marg Shopping Complex on certain terms, and required the appellant/petitioner to fulfill the conditions as set out in the said letter dated 13.11.2009. The appellant/petitioner, however, instead of complying with the letter dated 13.11.2009 served upon him by the DMRC, filed W.P.(C) 2915/2010 along with certain other individuals. Another writ petition, namely, W.P.(C) 2200/2010, was also filed challenging the letter of the DMCR dated 13.11.2009. All such petitions were clubbed together and were finally disposed of by a Coordinate Bench of this Court by means of the judgment and order dated 01.10.2010.

10. During the pendency of the aforesaid petitions wherein challenge was made to the letter dated 13.11.2009, issued by the DMRC, a draw of lots was held by DMRC, and as per the result of the draw of lots, the appellant/petitioner was allotted Shop No.75 at Bhai Veer Singh Marg Shopping Complex. As observed above, W.P.(C) 2915/2010 filed by the appellant/petitioner and certain other individuals was disposed of by this Court by means of a judgment and order dated 01.10.2010.

11. On CM APPL. 19714/2010, filed in W.P.(C) 2200/2010, which was already disposed of by the Division Bench of this Court vide order dated 01.10.2010, certain other directions were issued on 10.11.2010, and in terms of the said directions, a letter was issued on 27.10.2010 by the DMRC to the

appellant/petitioner whereby, he was informed of the terms and conditions to be complied with for issuance of the allotment letter in respect of the Shop No.75 at Bhai Veer Singh Marg Shopping Complex. Pursuant to the said letter, certain amount was also deposited by the appellant/petitioner and he also submitted certain documents. Though other Project-affected persons received possession of the alternate shops allotted to them at Bhai Veer Singh Marg Shopping Complex as per the draw of lots, however, possession of the shop allotted to the appellant/petitioner in the draw of lots, namely. Shop No.75 was not given to him.

12. The case set up by the DMRC before the learned Single Judge was that the appellant/petitioner did not feature in the list of licensees and Tehbazari holders of the Municipal Corporation concerned and therefore, since the appellant/petitioner was an illegal encroacher on the basis of which he used to run a shop earlier, was not entitled for allotment and possession of the alternate shop.

13. The Chief Engineer/Project Director, DMRC issued a letter dated 08.06.2011, to the appellant/petitioner stating therein that the ownership of the Shop No.145A at Panchkuian Road, which was said to be in possession of the appellant/petitioner, was not supported by MCD/North Delhi Municipal Corporation (hereinafter referred to as the „NDMC) record and accordingly, the appellant/petitioner was required to substantiate his rights by way of appropriate legal proceedings. It was also stated in the said letter dated 08.06.2011 that Shop No.75 at Bhai Veer Singh Marg Shopping Complex allocated through lottery in lieu of Panchkuain Road Shop No.145A cannot be allotted to the petitioner. The letter further stated that the amount deposited by the appellant/petitioner for the said shop shall be returned as per DMRC Rules and the procedures in that regard.

14. The appellant/petitioner, thus, feeling aggrieved by the said letter dated 08.06.2011 denying him allotment of alternate shop at Bhai Veer Singh Mark Shopping Complex, instituted the proceedings of W.P.(C) 1023/2012, with a prayer to quash the said letter and also seeking a direction that he be rehabilitated by way of allotment of Shop No.75 at Bhai Veer Singh Marg Shopping Complex under the Relocation and Rehabilitation Policy. The said writ petition, however, has been dismissed by the learned Single Judge by way of judgment and order dated 01.07.2019. It is this judgment and order dated 01.07.2019 rendered by the learned Single Judge, which is under challenge in this intra-court appeal.

15. The main plank of argument made on behalf of the appellant/petitioner impeaching the impugned judgment and order passed by the learned Single Judge is that the respondents are bound by the principles of promissory estoppel and legitimate expectation to allot and settle the Shop No.75 at Bhai Veer Singh Marg Shopping Complex with him which was allotted to him in a draw of lots drawn by DMRC pursuant to the statement made before this Court, during pendency of the proceedings of LPA 1609/2006 and other connected matters.

16. It has been argued on behalf of the appellant/petitioner that in view of the statement made before this Court, a promise/representation was made by the respondents for allotment of the shop to the appellant/petitioner and thereafter, on such a promise/representation made, the appellant/petitioner altered his position and acting upon the said promise he also made a deposit of

the amount for allotment of the shop. His submission, thus, is that in view of the clear promise/representation made and the appellant/petitioner having altered his position by way of making the deposit, the respondents cannot be permitted to resile from their promise on the basis of the principle of promissory estoppel.

17. It has been argued by the learned Senior Counsel representing the appellant/petitioner that the learned Single Judge has not appropriately considered the said submission and the right of allotment available to the appellant/petitioner on the basis of principles of promissory estoppel and as such, the judgment under appeal is erroneous.

18. Apart from the claim asserted on behalf of the appellant/petitioner on the principle of promissory estoppel, it has also been argued by the learned Senior Counsel representing the appellant/petitioner that the Relocation and Rehabilitation Policy was a beneficial scheme and, accordingly, it should be construed and applied in a manner which benefits all the shopkeepers on Panchkuian Road who were in possession of their respective shops irrespective of the fact as to whether they were licensee of the MCD or a Tehbazari holder.

19. Our attention has also been drawn to an office noting dated 20.04.2011, on the file of the DMRC wherein, it has been opined that the appellant/petitioner was in possession of Shop No.145A at Panchkuian Road and is eligible for allotment of shop in Bhai Veer Singh Marg Shopping Complex and accordingly, in view of the said admission made by the Chief Engineer of DMRC, impugned action on the part of the respondents not acceding to the claim of the appellant/petitioner for allotment of Shop No.75 at Bhai Veer Singh Marg Shopping Complex cannot be justified and the same is highly improper and arbitrary.

20. It has been thus argued that all the aforesaid aspects of the matter have not been taken into consideration by the learned Single Judge, and therefore, the judgment under appeal is liable to be set aside with a further direction to the respondents to allot the Shop No.75 at Bhai Veer Singh Marg Shopping Complex to the appellant/petitioner.

21. Learned senior counsel appearing on behalf of the appellant/petitioner has relied upon the following judgments of the Hon ble Supreme Court, in the cases of, Brahampal v. National Insurance Co., (2021) 6 SCC 512, Madan Singh Shekhawat v. Union of India, (1999) 6 SCC 459, Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527, State of Punjab v. Nestle India Ltd., (2004) 6 SCC 465, State of Punjab v. Nestle India Ltd., (2004) 6 SCC 465 and State of Jharkhand v. Brahmaputra Metalics Ltd., (2023) 10 SCC 634.

22. On the other hand, learned counsel representing the respondents has argued that during the proceedings of LPA 1609/2003 and other connected matters, the statement made on behalf of the respondents was to the effect that only those shopkeepers who were in possession of their respective shops at Panchkuian Road on the basis of valid licenses issued by the Municipal Corporation concerned shall be eligible for allotment of a shop at Bhai Veer Singh Mark Shopping Complex, even if their licenses were terminated

23. Further submission on behalf of the respondent is that the appellant/petitioner is not a licensee of the MCD, nor was he a Tehbazari holder in respect of Shop No.145A at Panchkuian Road, and as a matter of fact, he was an encroacher and accordingly, no benefit can be permitted to be extended to such an encroacher of the Relocation and Rehabilitation Policy. It is also the submission of the learned counsel representing the respondents that merely on the basis of the file noting recorded on 20.04.2011, the petitioner cannot claim any right of allotment of the alternate shop at Bhai Veer Singh Marg Shopping Complex for the reason that it is the eligibility of such shopkeeper which needs to be taken into consideration for holding a shop at Panchkuian Road eligible for allotment of the alternate shop at Bhai Veer Singh Marg Shopping Complex. His submission is that the statement made during the proceedings of LPA 1609/2006 and other connected matters was unambiguous and clear, which applied to only those who were license holders or leaseholders of the Municipal Corporation concerned though the licenses or leases were terminated. In this view, his submission is that there has never been any representation or promise made to the appellant/petitioner or any other such shopkeeper at Panchkuian Road who was not having either a license or lease granted by Municipal Corporation or a Tehbazari holder and accordingly, the claim of the appellant/petitioner based on the principle of either legitimate expectation or promissory estoppel is not made out.

24. Taking the Court extensively to the discussions made by the learned Single Judge in the impugned judgment it has been argued by learned counsel representing the respondents that the learned Single Judge has considered each and every aspect of the matter and has given a finding about disentitlement and ineligibility of the appellant/petitioner for grant of the alternate shop at Bhai Veer Singh Marg Shopping Complex. His submission is that the judgment under challenge passed by the learned Single Judge does not suffer from any irregularity, much less any illegality, so as to call for any interference by this Court in this LPA.

25. Learned counsel representing the respondents have relied upon the following judgments of the Hon ble Supreme Court in the cases of Rajasthan State Industrial Development & Investment Corpn. v. Diamond & Gem Development Corpn. Ltd., (2013) 5 SCC 470 and Union of India v. S.B. Vohra, (2004) 2 SCC 150.

26. Having heard the competing arguments advanced by learned counsel representing the respective parties and perused the record, we are of the opinion that the submissions made on behalf of the appellant/petitioner are not tenable. As a matter of fact, the learned Single Judge has considered each and every argument advanced before us on behalf of the appellant/petitioner and has returned a finding that the principles of legitimate expectation or promissory estoppel, in this case, do not come to the rescue of the appellant/petitioner so far as his claim for allotment of alternate shop at Bhai Veer Singh Marg Shopping Complex is concerned.

27. Learned Single Judge has referred to the judgment of this Court, dated 02.06.2006 and has opined that the Court, in the said decision, had proceeded on the basis that the petitioners of the said writ petition, which included the appellant/petitioner herein as well, possess a legal right of continued possession of their respective shops. The learned Single Judge has also observed that while this statement may have been correct in respect of other petitioners of the said writ petition however, it is certainly not correct in so far as the appellant/petitioner is concerned for the reason

that the appellant/petitioner has utterly failed to establish that he was either a licensee/lessee of the Municipal Corporation concerned or Tehbazari right holder. The learned Single Judge, thus, refused to accept that the appellant/petitioner can be permitted to draw any benefit out of the judgment dated 02.06.2006.

28. The learned Single Judge has further noticed that the decision dated 02.06.2006, rendered by a Division Bench of this Court earlier, was not accepted by the DMRC and the MCD and accordingly, LPA 1609/2006 and LPA 1653/2006 were preferred by the DMRC and LPA 1218/2007 and LPA 1225/2007 were preferred by the MCD. It has also been noticed by the learned Single Judge that during the pendency of the said LPAs, a proposal was made on behalf of DMRC that all license holders would be given alternate shops on lease of 30 years on concessional rates. The relevant extract of the order dated 02.08.2006, passed by the Division Bench in LPA 1609/2006, and other connected matters has been noticed by the learned Single Judge which is reproduced here under for ready reference: -

"Without prejudice to the rights and contentions of the parties, Mr. Jaitley has given a proposal that all the licence holders, although their licences were terminated, shall be given a lease for 30 years on concessional rate, which, according to him, comes to Rs.9.5 lacs approximately for an area of about 160 sq. ft. At the first instance, all the furniture market licensees numbering about 200 shall be allocated space in the existing' building, i.e. 49 shall be allocated on the ground floor and rest on other floors of the building. However, the plans shall be sanctioned by NDMC and a building shall be constructed adjoining the said building which is already constructed and remaining furniture shops of upper floors shall also be given space on the ground floor iii the: proposed building.

Counsel for the respondents pray; for some time to seek instructions from their respective clients.

Renotify on 29.08.2006.

Standing Counsel for respondent-NDMC shall remain present on the date fixed."

29. Noticing the said statement/proposal made on behalf of DMRC, it has been opined by learned Single Judge that from the said proposal given by the DMRC, it was clear that the proposal was made only to accommodate "all license holders" whose licenses had been terminated and not to rank trespassers. Learned Single Judge has concluded that the proposal was not for the benefit of the appellant/petitioner who had never been issued any license by the MCD/NDMC. Learned Single Judge also observed that during the pendency of the aforesaid LPAs as well, the appellant/petitioner did not draw the attention of the Court to the fact that he was not a licensee in respect of the shop occupied by him at Panchkuian Road and accordingly, learned Single Judge further opined that none of the orders passed by this Court in earlier proceedings can come to the benefit of the appellant/petitioner since all the orders were rendered on an assumption that the shopkeepers including the petitioner were a licensee or a lessee and had occupied the shop pursuant to the grant

of right by MCD/NDMC.

30. The finding recorded by the learned Single Judge in the judgment under appeal is that the appellant/petitioner had joined other shopkeepers at Panchkuian Road in filing the writ petition and contested the matter without drawing the attention of the Court that his case was different from that of the other petitioners in the sense that the appellant/petitioner was never granted any license of lease or any other right by the MCD/NDMC. Accordingly, the learned Single Judge came to the conclusion that the proposal made before this Court on behalf of DMRC during the pendency of the LPA 1609/2006 and other connected matters, did not cover in its fold the appellant/petitioner for the reason that the said proposal/statement was made in respect of licensees/lessees of NDMC or MCD and not in respect of those who were rank trespassers and were in possession of some shop at Panchkuian Road illegally.

31. Nothing has been brought to our notice even while arguing this intra- court appeal to show and establish that the appellant/petitioner was either a licensee or lessee or was conferred even with any other right by the Municipal Corporation concerned, such as Tehbazari rights and accordingly, we do not find the case canvassed on behalf of the appellant/petitioner that the respondents are bound by the said proposal/statement made before this Court in respect of the appellant/petitioner as well, as tenable.

32. For claiming any benefit, based on the principle of promissory estoppel, the representation or promise by the party concerned should be made unequivocally and in absence of any clear and unequivocal promise or representation, even if the other party alters its position, in such a situation no rights can be said to be created in favour of the other party on the principle of promissory estoppel.

33. So far as the judgments relied upon by the learned counsel for the appellant/petitioner are concerned, there cannot be any dispute to the legal principles enunciated therein, however, in the absence of any categorical or unequivocal promise or representation made to the appellant/petitioner for grant of the alternate shop, no right can be said to have accrued to the appellant/petitioner for allotment of the alternate shop. As a matter of fact, the statement made before this Court during the pendency of LPA 1609/2006 and other connected matters was only in respect of licensee/leaseholders of the Municipal Corporation concerned. There is nothing before us to conclude that the appellant/petitioner was conferred with any such lease or license rights by the Municipal Corporation nor any other right conferred by the Municipal Corporation on the appellant/petitioner such as Tehbazari rights and accordingly, we are in agreement with the finding recorded by learned Single Judge that the statement made by the respondents during the pendency of the LPA 1609/2006 and other connected matters does not covered the appellant/petitioner.

34. We may also refer to the observation made by the Hon ble Supreme Court in the case of Rajasthan State Industrial Development (supra) cited on behalf of the respondents, wherein, it has been held that the grant or refusal of writ is at the discretion of the Court and further that a writ cannot be granted unless it is established that there is an existing legal right of the party applying for the writ or an existing duty of the respondent. The Hon ble Supreme Court has further held that the

writ does not lie to create or establish a legal right but to enforce a right that is already established.

35. We may also refer to yet another judgment of the Hon ble Supreme Court in the case of S.B. Vohra, (supra) where it has been held that a writ of mandamus is issued in favour of a person who establishes a legal right in himself or against a person who has a legal duty to perform but has failed or neglected to do so.

36. Accordingly, in view of the aforesaid discussion, the appellant/petitioner does not seem to convince us about the applicability of the principle of promissory estoppel to claim right of allotment of alternate shop under the Relocation and Rehabilitation Policy of the respondents.

37. As far as the reliance placed by learned counsel on the note dated 20.04.2011, is concerned, we may only observe that such file noting can only be termed to be an opinion of an officer of the DMRC; the same cannot be treated or deemed to be an admission on the part of the DMRC about the entitlement of the appellant/petitioner for allotment of alternate shop. As a matter of fact, right of allotment has to be determined not on the basis of any file noting rather, on the basis of legal provisions. We have already held in our discussion above that there is nothing on record which establishes that the appellant/petitioner was a licensee holder or a lessee of the Municipal Corporation concerned. He was rather a rank trespasser of Shop No.145A at Panchkuian road and accordingly the statement made before this Court on behalf of the respondent during the pendency of the proceedings of LPA 1609/2006 and other connected matters will not bind the respondents to allot the shop to the appellant/petitioner. The said statement, in fact will be applicable only in case a shop keeper at Panchkuian Road was either a lessee or a license holder of MCD/NDMC or he was conferred any other right such as Tehbazari right by the Municipal Corporation concerned.

38. For the reasons given and for the discussion made above, we are in complete agreement with the impugned judgment dated 01.07.2019, passed by learned Single Judge and therefore, we do not find any good ground to interfere with the same.

39. Resultantly, the appeal is hereby dismissed.

40. However, there will be no order as to costs.

(DEVENDRA KUMAR UPADHYAYA) CHIEF JUSTICE (TUSHAR RAO GEDELA) JUDGE APRIL 03, 2025 "shailndra"/ MJ