

Chanchal Devi vs.delhi Development Authority

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Court : Delhi

Decided On : Aug-28-2018

Appellant : Chanchal Devi

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : Mr. Ajit Nair, Mr. Avdhesh Nuniwala, Mr. Sachin

Judgement :

* % + + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

28. h August, 2018. RSA1212018 CHANCHAL DEVI Appellant Through: Mr. Ajit Nair, Mr. Avdhesh Nuniwala and Mr. Sachin, Advs. Versus DELHI DEVELOPMENT AUTHORITY Through: None. Respondent AND RSA1222018 PHOOL SINGH YADAV Appellant Through: Mr. Ajit Nair, Mr. Avdhesh Nuniwala and Mr. Sachin, Advs. Versus DELHI DEVELOPMENT AUTHORITY CORAM: HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW CMs No.34762/2018 & 34763/2018 in RSA No.121/2018 & CMs No.34766/2018 & 34767/2018 in RSA No.122/2018 (all for exemption) Through: None. Respondent Allowed, subject to just exceptions. The applications are disposed of.

1. 2. RSAs 121/2018 & 122/2018 Page 1 of 18 RSA1212018 & CM No.34761/2018 (for stay) & RSA1222018 & CM No.34765/2018 (for stay) 3. These two Regular Second Appeals under Section 100 of the Code of Civil Procedure, 1908 (CPC) impugn the judgments and decree [both dated 31st May, 2018 in RCA

No.01/2017 and RCA No.56/2016, both of the Court of Senior Civil Judge (North-West)]. allowing the First Appeals under Section 96 of the CPC preferred by the respondent Delhi Development Authority (DDA) against the judgments and decree [both dated 17th October, 2016, in CS No.559/2014 (Case No.9578/2016) and CS No.529/2014 (Case No.9577/2016), both of the Court of Civil Judge (West)]. allowing the suits filed by each of the appellant/plaintiff for permanent injunction restraining the respondent/defendant DDA and Station House Officer (SHO), Police Station Sultanpuri, Delhi from demolishing the construction of the house of each of the appellant/plaintiff and from dispossessing each of the appellant/plaintiff therefrom.

4. Though both the appeals arise from separate judgments in separate suits/appeals but the nature of controversy and the arguments in both are the same and these Regular Second Appeals have also been filed by the same counsel and on the same grounds and proposing the same substantial questions of law and have been argued as one. Thus, both the appeals are decided by this common judgment.

5. The counsel for the appellants/plaintiffs has been heard and the copies of the relevant Suit Court records annexed to the memorandums of appeal perused. RSAs 121/2018 & 122/2018 Page 2 of 18 6. The appellant/plaintiff in RSA No.121/2018 claimed to be the owner of built up pakka house bearing No.18/4, measuring 50 sq. yds. forming part of Khasra No.48/4, situated in the colony of Mange Ram Park, Budh Vihar, Phase-II, in the area of Village Pooth Kalan, Delhi.

7. The appellant/plaintiff in RSA No.122/2018 claimed to be the owner of built up house bearing No.40/1D, measuring 50 sq. yds. forming part of Khasra No.47/3, situated in Gali No.3, Harsh Dev Park, Budh Vihar, Part-II, in the area of Village Pooth Kalan, Delhi.

8. The suits were filed by each of the appellant/plaintiff to restrain the respondent/defendant DDA and the SHO, Police Station-Sultanpuri from causing any further demolition/damage to the properties aforesaid of each of the appellant/plaintiff.

9. Each of the appellant/plaintiff claimed to be the owner of their respective properties, not by virtue of any Sale Deed/Conveyance Deed/Transfer Deed or allotment made by any governmental authority, but by virtue of Agreement to Sell, Power of Attorney and Will etc. which in *Suraj Lamp & Industries Pvt. Ltd. Vs. State of Haryana* AIR 2012 SC206 have been held by the Supreme Court to not constitute documents of title.

10. It was the case of each of the appellant/plaintiff that they were in possession of their respective properties since the year 2000.

11. The respondent/defendant DDA contested the suits inter alia pleading (i) that while the house of the appellant/plaintiff in RSA No.121/2018 was situated in Khasra No.4

(and not in Khasra No.48/4), the house of the appellant/plaintiff in RSA No.122/2018 was situated in Khasra No.4

(and not in Khasra No.47/3); (ii) that the land underneath the house of each of the RSAs 121/2018 & 122/2018 Page 3 of 18 appellant/plaintiff was acquired under the provisions of the Land Acquisition Act, 1894 and had been placed at the disposal of the respondent/defendant DDA and was transferred to the Rohini Residential Scheme on 2nd May, 1986; (iii) that a demolition programme to remove the encroachment made by each of the appellant/plaintiff and others on the acquired land was scheduled for 18th September, 2006 and encroachments removed on the said date; (iv) that each of the appellant/plaintiff had re-encroached over the said land; (v) that the respondent/defendant DDA was justified in removing the encroachment; (vi) that even Khasra No.4

in which the appellant/plaintiff in RSA No.121/2018 claimed his house to be and Khasra No.4

in which the appellant/plaintiff in RSA No.122/2018 claimed his house to be, were acquired vide the same Notification; and, (vii) that the appellants/plaintiffs being encroachers, had no right to injunct the respondent/defendant DDA.

12. Both the suits were tried by the Court of the same learned Civil Judge who framed the following issues in RSA No.121/2018 on 30th May, 2007: (1) Whether the plaintiff is the sole and absolute owner of the suit property?. OPP (2) Whether

the plaintiff is entitled to decree of injunction as prayed for?. OPP (3) Whether the plaintiff has no locus standi to file the present suit as the suit property is situated on the acquired land vide award no.20/85-86 placed at the disposal of DDA?. OPD (4) Whether the plaintiff is seeking a decree of declaration in the garb of permanent injunction?. OPD (5) Whether the suit is bad qua defendant no.2 for want of statutory notice u/s. 140 DP Act and notice u/s. 80 CPC?. OPD (6) Relief. RSAs 121/2018 & 122/2018 Page 4 of 18 and the following issues in the suit from which RSA No.122/2018 arises: (1) Whether the plaintiff is the sole and absolute owner of the suit property?. OPP (2) Whether the plaintiff is entitled to decree of injunction as prayed for?. OPP (3) Whether the plaintiff has no locus standi to file the present suit as the suit property is situated on the acquired land vide award no.20/85-86 placed at the disposal of DDA?. OPD (4) Whether the plaintiff is seeking a decree of declaration in the garb of permanent injunction?. OPD (5) Whether the suit is bad qua defendant no.2 for want of statutory notice u/s. 140 DP Act and notice u/s. 80 CPC?. OPD (6) Relief. 13. The Suit Court decided both the suits in favour of the appellants/plaintiffs, reasoning (a) that the respondent/defendant DDA had not placed on record the original or certified copy of the award vide which the land was acquired, to prove that Khasra NO.4 and Khasra No.4

in which the respective appellant/plaintiff claimed their properties to be, had also been acquired; (b) that the possession of the appellants/plaintiffs had been admitted by the respondent/defendant DDA; (c) that the respondent/defendant DDA had not filed any demarcation report to prove that the appellants/plaintiffs were occupying the land of Khasra Number 47/2, in which the respondent/defendant DDA was claiming the properties of the appellants/plaintiffs to be; (d) that the record of demolition action carried out on 18th September, 2006 had also been proved by a witness who was not RSAs 121/2018 & 122/2018 Page 5 of 18 a signatory thereto and was not a participant in the demolition programme; (e) that the description of the property where the demolition action was carried out was given as Near Braham Shakti Hospital, Sector-23, Rohini, without specifically stating individual areas or the pakka structures demolished; (f) that the counsel for the respondent/defendant DDA, in cross- examination of the appellants/plaintiffs, had suggested that after demolition action, the land was vacant; however in the

written statements, the case was of the appellants/plaintiffs having re-encroached, after the demolition action on 18th September, 2006; (g) that the respondent/defendant DDA had not pleaded or proved any FIR or complaint made against the appellants/plaintiffs of encroachment; (h) that the appellant / plaintiff in RSA No.121/2018, in her cross-examination, had admitted that the Khasra Number in which the said appellant/plaintiff claimed her property to be and the Khasra number in which the respondent/defendant DDA claimed the properties of the appellants/plaintiffs to be, were adjacent to each other; that the appellant / plaintiff in RSA No.122/2018, in his cross-examination had admitted that his property was situated near the Braham Shakti Hospital, Sector-23, Rohini, which is the same land on which demolition was carried out by respondent / defendant DDA on 18th September, 2006; (i) that the action of the respondent/defendant DDA of demolition on 18th September, 2006 was unjust and arbitrary; (j) that the respondent/defendant DDA had not led any evidence to prove that the appellants/plaintiffs were not in peaceful possession of the properties; (k) that the respondent/defendant DDA could not forcibly dispossess the appellants/plaintiffs from land which had not been acquired. RSAs 121/2018 & 122/2018 Page 6 of 18 Accordingly, the Suit Court restrained the respondent/defendant DDA from adopting forceful means to recover possession from the appellants/plaintiffs, without following the due process of law.

14. On First Appeals being preferred by the respondent/defendant DDA, the First Appellate Court allowed the appeals and set aside the judgment of the Suit Court and dismissed the suits of each of the appellant/plaintiff, reasoning (i) that the Suit Court had erred in not following the basic law regarding appreciation of evidence and onus of proof; (ii) that the onus was initially on the appellants/plaintiffs to prove that their respective properties fell and/or were situated in Khasra Numbers in which each of them claimed their properties to be; (iii) that the onus was not on the respondent/defendant DDA; (iv) that the Agreement to Sell, Power of Attorney, Will etc. did not satisfy the requirement of Section 35 of the Indian Stamp Act, 1899 and proper stamp duty as required to be paid on documents of transfer of immoveable property, had not been paid; (v) that neither of the appellant/plaintiff had title to the property and the Agreement to Sell, Power of Attorney, Will etc. were inadmissible in evidence, being deficit in stamp duty required to be paid

thereon; (vi) that the appellants/plaintiffs had thus failed to prove purchase or ownership of the properties with respect to which each of them had filed the suit; (vii) that the counsel for the appellants/plaintiffs, in cross-examination of the witness of the respondent/defendant DDA, had not challenged the acquisition Notifications proved by the said witness; (viii) that on the basis of material on record, the respondent/defendant DDA was the owner of the land on which the properties of the appellants/plaintiffs were situated; (ix) that possession follows title and there cannot be any injunction against the true owner; (x) RSAs 121/2018 & 122/2018 Page 7 of 18 that the relief of permanent injunction is an equitable relief; (xi) that the Supreme Court in Anathula Sudhakar Vs. P. Buchi Reddy (2008) 4 SCC594 has held (a) that where a plaintiff is in lawful or peaceful possession of a property and such possession is interfered or threatened by the defendant, a suit for an injunction simpliciter will lie; (b) that a person in wrongful possession is not entitled to an injunction against the rightful owner; (c) that where the title of the plaintiff to the property is in dispute or the defendant asserts title to the property with respect to which injunction against dispossession is claimed, the plaintiff has to sue for declaration of title and consequential relief of injunction; (d) that the respondent/defendant DDA in its written statements had challenged the title claimed by the appellants/plaintiffs and set up title in itself; (e) that the appellants/plaintiffs were required to file a suit for declaration and injunction; (f) that declaration is necessary, if the defendant denies the title or challenges the plaintiffs title or raises a cloud on the title of the appellants/plaintiffs with respect to properties qua which the suit is filed; and, (g) that only where the respondent/defendant DDA merely denies the title of the appellant/plaintiff and the appellant/plaintiff has in support of title placed documents on record is the appellant/plaintiff not required to sue for declaration and a suit for injunction is sufficient; and, (xii) that on the respondent/defendant DDA in their written statement pleading to be the owner of the land by acquisition and vesting in DDA, the appellants/plaintiffs were required to sue for declaration of their title and which they had not done.

15. The counsel for the appellants/plaintiffs before me, has urged the same arguments which prevailed with the Suit Court, i.e., of the onus being on the respondent/defendant DDA to prove that the land underneath the properties RSAs

121/2018 & 122/2018 Page 8 of 18 of the appellants/plaintiffs was situated in the Khasra Numbers claimed by the respondent/defendant DDA and not in the Khasra Numbers in which each of the appellant/plaintiff claimed their land to be situated. Rather, the counsel for the appellants/plaintiffs has suggested that this Court should remand the matters to the Suit Court to have the land demarcated.

16. The counsel for the appellants/plaintiffs forgets that he has approached this Court in Regular Second Appeals, the scope whereof was restricted/curtailed by the Amendment to the CPC of the year 1976. Now, the High Court cannot entertain a Regular Second Appeal without recording satisfaction that the case involves a substantial question of law. Supreme Court recently in *Surat Singh Vs. Siri Bhagwan* (2018) 4 SCC 562 has held that, once the High Court is satisfied after hearing the appellant that the appeal involves a substantial question of law, it has to formulate the same under Section 100(4) CPC and once substantial question of law is framed, direction for issuance of notice to respondent along with substantial question of law is to be issued.

17. The counsel for the appellants/plaintiffs, at this stage states that he has proposed substantial questions of law in the memorandum of appeals.

18. However, the substantial questions of law proposed are in the form of issues to be framed in a suit and do not qualify as substantial questions of law. Rather, the counsel for the appellants/plaintiffs frankly admits that he has always entertained a doubt, as to what constitutes a substantial question of law.

19. Attention of the counsel for the appellants/plaintiffs is drawn to the recent judgment pronounced by the undersigned in *Dalip Singh Vs. Tulsi RSAs 121/2018 & 122/2018 Page 9 of 18 Ram 2018 SCC OnLine Del 10833* where the substantial question of law has been explained by relying on the judgments of the Supreme Court cited therein as under: importance or whether 20. Supreme Court, in *Veerayee Ammal Vs. Seenii Ammal* (2002) 1 SCC 134 held that merely because on appreciation of evidence another view is also possible would not clothe the High Court to assume jurisdiction on issue of fact framed by the Trial Court by terming the question as substantial question of law. As far back as in *Sir Chunilal V. Mehta Vs. Century Spinning and Manufacturing Co. Ltd.* AIR 1962 SC 1314 reiterated in

Kashmir Singh Vs. Harnam Singh (2008) 12 SCC796 it was held that the proper test for determining whether a question of law raised in a case is substantial, is whether it is of general public it directly and substantially affects the rights of the parties and if so whether it is an open question in the sense it is not finally settled or is not far from difficulty or calls for discussion of alternative views; if the question is settled by the highest Court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles, it would not be a substantial question of law. It was further held that it is not within the domain of the High Court to investigate the grounds on which the findings were arrived at by the last Court of fact being the first Appellate Court. Mere appreciation of facts, documentary evidence was held to be not raising a question of law. Even in Santosh Hazari Vs. Purushottam Tiwari (2001) 3 SCC179 it was held: To be substantial a question of law must be debatable, not previously settled by law of the land or a binding precedent, and must have a material bearing on the decision of the case, if answered either way, insofar as the rights of the parties before it are concerned. RSAs 121/2018 & 122/2018 Page 10 of 18 21. Mention may also be made of Hero Vinoth Vs. Sheshammal (2006) 5 SCC545 holding as under: The principles relating to Section 100 CPC, 24. relevant for this case, may be summarised thus:-

"(i) An inference of fact from the recitals or contents of a document is a question of fact. But the legal effect of the terms of a document is a question of law. Construction of a document involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a document or wrong application of a principle of law in construing a document, it gives rise to a question of law. (ii) The High Court should be satisfied that the case involves a substantial question of law, and not a mere question of law. A question of law having a material bearing on the decision of the case (that is, a question, answer to which affects the rights of parties to the suit) will be a substantial question of law, if it is not covered by any specific provisions of law or settled legal principle emerging from binding precedents, and, involves a debatable legal issue. A substantial question of law will also arise in a contrary situation, where the legal position is clear, either on account of express provisions of law or binding precedents, but the court below has decided the matter, either ignoring or acting

contrary to such legal principle. In the second type of cases, the substantial question of law arises not because the law is still debatable, but because the decision rendered on a material question, violates the settled position of law. (iii) The general rule is that High Court will not interfere with the concurrent findings of the courts below. But it is not an absolute rule. Some of the well-recognized exceptions are where (i) the courts below have ignored material evidence RSAs 121/2018 & 122/2018 Page 11 of 18 from proved the facts by applying or acted on no evidence;(ii) the courts have drawn wrong inferences law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to decision based on no evidence, it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.

22. Supreme Court, in Damodar Lal Vs. Sohan Devi (2016) 3 SCC78 referring to Kulwant Kaur Vs. Gurdial Singh Mann (2001) 4 SCC262 Gurvachan Kaur Vs. Salikram (2010) 15 SCC530and S.R. Tewari Vs. Union of India (2013) 6 SCC602held, (a) that the First Appellate Court under Section 96 CPC is the last Court of facts; (b) the High Court in Second Appeal under Section 100 CPC cannot interfere with findings of fact recorded by the First Appellate Court under Section 96 CPC; (c) the findings of fact of First Appellate Court can be challenged in Second Appeal on the ground that the said findings are based on no evidence or are perverse; (d) even if the finding of fact is wrong, that by itself will not constitute a question of law; the wrong finding should stem out of a complete misreading of evidence or it should be based only on conjunctures and surmises; (e) if to a reasonable man, the conclusion on the facts in evidence made by the Courts below is possible, there is no perversity; (f) inadequacy of evidence or a different reading of evidence is not perversity; (g) Code of Civil Procedure (Amendment) Act, 1976 introduced a definite restriction on the exercise of jurisdiction in a Second Appeal; (h) where it is found that findings stand vitiated on wrong test and on the basis of assumptions and conjunctures and resultantly there is an element of perversity involved therein, will the High Court be within its jurisdiction to deal with the issue; this is however only in the event such a fact is brought to light explicitly; (i) the findings of RSAs 121/2018 & 122/2018 Page 12 of 18 fact recorded by Court can be held to be perverse if the findings have been

arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant / inadmissible material or if the findings is against the weight of evidence or if the finding so outrageously defies logic as to suffer from vice of irrationality; (j) however if there is some evidence on record which is acceptable and which could be relied upon, the conclusion would not be treated as perverse and the findings will not be interfered with. 20. To say the least, none of the substantial questions of law proposed by the counsel for the appellants/plaintiffs meet the test as laid down by the Supreme Court in the aforesaid judgments.

21. As far as the first contention of the counsel for the appellants/plaintiffs, of remanding the matters for demarcation, is concerned, the said question would arise only if a substantial question of law is shown to be entailed in these matters and which has not been done. The First Appellate Court, in a very well reasoned and erudite judgment, has set aside the judgment of the Suit Court in favour of the appellants/plaintiffs and the counsel for the appellants/plaintiffs is unable to poke any hole therein. The First Appellate Court, as aforesaid, has exhaustively relied on Anathula Sudhakar supra and in spite of my repeated asking, as to which part of Anathula Sudhakar supra relied upon by the First Appellate Court is contrary to the said judgment, the counsel for the appellants/plaintiffs has not been able to cite any.

22. The First Appellate Court has rightly held that the onus of the issues framed qua Khasra Number in which the properties were situated, was on the appellants/plaintiffs and which the appellants/plaintiffs had failed to RSAs 121/2018 & 122/2018 Page 13 of 18 discharge. The appellants/plaintiffs, if felt a need for demarcation under the provisions of the Delhi Land Revenue Act, 1954 to be carried out, were required to apply therefor and have the demarcation carried out during the pendency of the suit and/or lead evidence with respect thereto and which the appellant/plaintiff have failed to do. The appellants/plaintiffs cannot now, after keeping the proceedings pending for the last 12 years, seek to do what they may have been required to do at the stage of trial in the suit. Though the appellants/plaintiffs are in possession, but it cannot be forgotten that Rohini Residential Scheme, for which the land was acquired, has itself been held up and delayed for decades on account of such encroachments and the allottees of the

flats to be constructed under Rohini Residential Scheme have been before this court in other jurisdictions, seeking a direction to the respondent/defendant DDA to deliver the flats. The respondent/defendant DDA, inspite of such directions, has been unable to comply therewith for reasons of stay granted in other proceedings at the instance of encroachers over land acquired for such development. The same has resulted in a position, that while the encroachers as the appellants/plaintiffs are continuing to enjoy the encroached property, the lawful allottees of flats to be constructed thereon are left without the property for which they have lawfully applied and waited. The purpose of the law and the Courts can certainly not be to, in the name of sympathy or technicalities, allow a person without lawful title to come in the way of a citizen who chooses to comply with the law. If the Court assists such encroachers/grabbers of land, there will be no incentive for any citizen to abide by the law and the same will lead to anarchy. RSAs 121/2018 & 122/2018 Page 14 of 18 23. Supreme Court also in Mandal Revenue Officer Vs. Goundla Venkaiah (2010) 2 SCC461 has reiterated that today the Courts are approached by land grabbers and encroachers and time has come for the Courts to stop rendering their shoulder and the assistance to such land grabbers and encroachers, in the name of rule of law.

24. The only other argument urged by the counsel for the appellants/plaintiffs is, that no notice under Section 30 of the Delhi Development Act, 1957 was issued by the respondent/defendant DDA to the appellants/plaintiffs.

25. The said argument has also been made as cursorily as the argument regarding onus of proof has been made and which the counsel has been unable to justify in law. Section 30 of the Delhi Development Act provides for demolition of construction made or commenced in relation to development area and in contravention of law by the owner thereof. The provision is to permit the respondent/defendant DDA to demolish construction by owners of the land/properties, in their property, and is not intended to deal with the encroachers.

26. The counsel for the appellants/plaintiffs had been interrupting during the dictation aforesaid and was directed to wait till the dictation is completed. He now draws attention to para 17(c) of Anathula Sudhakar supra as reported in All India

Reporter, where it has been observed: Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction. RSAs 121/2018 & 122/2018 Page 15 of 18 and contends that it was the duty of the Suit Court to relegate the appellants / plaintiffs to a comprehensive suit and the Suit Court having not done so, in Second Appeal, the appellants / plaintiffs should be so relegated and their possession should be protected till decision of such comprehensive suit.

27. There is no merit in the said contention.

28. I have referred to Suraj Lamp & Industries Pvt. Ltd. supra at the outset only. The appellant/plaintiffs, in the plaint, claimed to be owners on the basis of Agreement to Sell, Power of Attorney, Will etc. Though the Division Bench of this Court in Asha M Jain Vs. Canara Bank (2001) 94 DLT841 owing to the large scale of transfer of property by adopting the said mode, had treated the documents as Agreement to Sell, Power of Attorney, Will etc. as documents of title, but Supreme court in Suraj Lamp & Industries Pvt. Ltd. supra did not approve of the same and expressly set aside the said judgment. It is thus quite obvious that the appellants/plaintiffs, on their own case, had no title to the property and there was thus a need for the appellants/plaintiffs to, before seeking injunction, have their rights in the property, of which they claimed to be in possession, declared and which the appellants/plaintiffs did not do. This Court cannot now as aforesaid, after the appellants/plaintiffs have kept the lis pending for 12 years, relegate the parties to a fresh round as is being sought. The appellants/plaintiffs cannot any more protect their possession at the cost, as aforesaid, of citizens who as distinct from the appellants/plaintiffs, abide by the law.

29. The appeals thus do not raise any substantial question of law and are dismissed. RSAs 121/2018 & 122/2018 Page 16 of 18 30. The counsel for the appellants/plaintiffs at this stage makes the same argument, as made by a large number of other advocates i.e. Suraj Lamp & Industries Pvt. Ltd. supra is prospective. Reliance is placed on para 18 of the judgment as reported in AIR

2012 SC206 which is as under: 18. We have merely drawn attention to and reiterated the well-settled legal position that SA/GPA/WILL transactions are not transfers or sales and that such transactions cannot be treated as completed transfers or conveyances. They can continue to be treated as existing agreement of sale. Nothing prevents affected parties from getting registered Deeds of Conveyance to complete their title. The said SA/GPA/WILL transactions may also be used to obtain specific performance or to defend possession under section 53A of TP Act. If they are entered before this day, they may be relied upon to apply for regularization of allotments/leases by Development Authorities. We make to SA/GPA/WILL transactions have been accepted acted upon by DDA or other developmental authorities or by the Municipal or revenue authorities to effect mutation, they need not be disturbed, merely on account of this decision. the documents relating it clear that if 31. I have, in several other judgments, held that the aforesaid paragraph does not make the operation of the judgment prospective or does not make overruling of Asha M. Jain supra prospective. All that the said paragraph holds is that the said judgment will not affect the validity of Agreement to Sell, Power of Attorney, Will as Agreement to Sell, Power of Attorney, Will. The judgment nowhere holds that Power of Attorneys, Wills and Agreement to Sells of a date prior to pronouncement of the said judgment constitute documents of title. This is quite evident from the Supreme Court observing in the aforesaid paragraph, that it has merely reiterated the well settled RSAs 121/2018 & 122/2018 Page 17 of 18 position that Sale Agreement, General Power of Attorney and Will transactions are not transfers or sales.

32. The order dismissing the appeals thus stands. AUGUST28 2018 Bs.. RAJIV SAHAI ENDLAW, J.

RSAs 121/2018 & 122/2018 Page 18 of 18

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