

Dixit Yadav & Anr. Vs.delhi Development Authority & Ors.

Dixit Yadav & Anr. Vs.delhi Development Authority & Ors.

SooperKanoon Citation : sooperkanoon.com/1222737

Court : Delhi

Decided On : Apr-23-2019

Appellant : Dixit Yadav & Anr.

Respondent : Delhi Development Authority & Ors.

Advocate for Pet/Ap. : Mr. Rahul Sharma, Ms. Jyoti Dutt Sharma, Mr. Bilal Ali, Mr. C.K. Bhatt, Mr. Yeeshu Jain, Ms. Jyoti Tyagi, Mr. Naushad Ahmed Khan, Mr. Dhanesh Relan, Mr. Rajeev Jha, Ms. Komal Sorout, Mr. Gautam Narayan, Ms. Mahamaya Chatterjee

Judgement :

20 & 21 * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 1054/2015 & CM18552015 SATISH KUMAR & ORS

... Petitioner

s Through: Mr Rahul Sharma, Ms Jyoti Dutt Sharma, Mr Bilal Ali and Mr C.K. Bhatt, Advocates. versus DELHI DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS

Through: Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate LAC/L&B. Mr Naushad Ahmed Khan, ASC for GNCTD. Mr Dhanesh Relan, Standing Counsel for DDA with Mr Rajeev Jha and Ms Komal Sorout, Advocates. + DIXIT YADAV & ANR.

... Petitioner

s W.P.(C) 5753/2015 & CM103432015 Through: Mr Rahul Sharma, Ms Jyoti Dutt Sharma, Mr Bilal Ali and Mr C.K. Bhatt, Advocates. versus Through: Mr Gautam Narayan, ASC DELHI DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS

for GNCTD with Ms Mahamaya Chatterjee, Advocates. Mr Ajay Verma, Senior Standing Counsel for DDA with Mr Arjun Pant, ASC. Mr. Yeeshu Jain, Starding Counsel with Ms. Jyoti Tyagi, Advocate LAC/L&B. W.P.(C) 1054/2015 & W.P.(C) 5753/2015 Page 1 of 7 CORAM: JUSTICE S.MURALIDHAR JUSTICE I.S.MEHTA %

ORDER

2304.2019 Dr. S. Muralidhar, J.:

1. These two petitions arise out of a similar set of facts and seek similar reliefs and are accordingly being disposed of by this common order. The arguments on the petitions were, however, heard separately.

2. In both petitions the relief sought is for a declaration of deemed lapsing of the land acquisition proceedings in respect of residential plots forming part of a regularized colony Suraj Park located in the Revenue Estate of Village Samaypur in Delhi. While W.P.(C) No.1054/2015 seeks the above relief in respect of residential plots 100, 101 and 102 measuring 113 square yards each, W.P.(C) No.5753/2015 seeks the relief in respect of the residential plots 104 and 104A measuring 150 square yards each. The second prayer in each petition is for a direction to Respondent No.1 to restore the actual, physical and vacant possession of the aforementioned residential plots to the

... Petitioner

s. The third relief is to restrain the

... RESPONDENTS

from creating any third party interest or raising any construction on the said plots.

3. The averments in both petitions are almost identical. What is relevant is the averment in paragraphs 4 and 5 that there was a notification issued under Section

4 of the Land Acquisition Act, 1894 (LAA) in 1961 in respect of the acquisition of the entire revenue estate of Village Samaypur followed by W.P.(C) 1054/2015 & W.P.(C) 5753/2015 Page 2 of 7 a declaration dated 7th December, 1966 under Section 6 of the LAA. It is stated that the Award No.19/83-84 was pronounced in 1983, but by this time, a big part of the land had already been developed in the shape of residential colony, known as Suraj Park. It is further averred that the plots in the colony had been converted into residential plots much prior to the initiation of scheme of regularization by the Government of NCT of Delhi. The colony was carved out in the shape of different blocks i.e. A, B, and C and these blocks were further divided into different plots which were purchased, built and occupied by us.

4. Reference is made to the letter dated 14th June, 2004 written by the Land Management Branch of the Delhi Development Authority (DDA) to the Chairman of the Suraj Park Residential Welfare Association stating that the Suraj Park colony area was de-notified in 1987. The subject matter reads Deficiency, Irregularities causing confusion-clarity thereof regarding Suraj Park Colony.

5. Enclosed with each writ petition is a copy of the order dated 13th January, 1999 issued by the DDA referring to the development work of 18 unauthorized colonies entrusted to the Rohini Zone where the name Suraj Park figures at Serial No.2. Also enclosed is a copy of the W.P.(C) No.2048/1999 filed by Kehar Singh and others seeking a direction to restrain the

... RESPONDENTS

in that petition, which included the DDA, from demolishing structures of the

... Petitioner

s and dispossessing them from the lands of the same colony known as Suraj Park. It appears that there was an interim order dated 8th April, 1999 passed by the learned Single Judge in the W.P.(C) 1054/2015 & W.P.(C) 5753/2015 Page 3 of 7 said writ petition directing status quo to be maintained. The said writ petition was in respect of two Khasra Nos. i.e. Khasra Nos.

Min (2-8), 22 Min (2-8) and 23 Min (2-8). The DDA informed the Court that the above Khasra Nos. had been excluded from the scheme of regularization of the colony. An affidavit to this effect was filed in March, 2013. Following this on 1st

May, 2013, W.P.(C) No.2048/1999 was withdrawn and a fresh writ petition being W.P.(C) No.2803/2013 which had been filed seeking similar reliefs in respect of the remaining khasra numbers was entertained and a notice was issued. The counsel for the

... Petitioner

informs the Court that this W.P.(C) No.2803/2013 is still pending before the learned Single Judge and is coming up for hearing on 22nd August, 2019.

6. As far as the present petitions are concerned, it is stated that in view of the enactment of the 2013 Act, which came into operation on 1st January, 2014, the

... Petitioner

s are entitled to the reliefs under Section 24 (2) of the 2013 Act since no compensation has been paid for the land in question despite the

... Petitioner

s being forcibly dispossessed of the same.

7. Admittedly, the lands in question form part of the colony Suraj Park which on the showing of the

... Petitioner

s was initially an unauthorized colony and is today supposedly a regularized colony. This entire process of the regularization of the unauthorized colony has proceeded on the premise that those who are in occupation of the land in question have no valid right, title or interest thereto. This Court has consistently taken the view that where the lands in question are part of an unauthorized colony, which is either awaiting regularization, or has been regularized, the relief under Section 24 W.P.(C) 1054/2015 & W.P.(C) 5753/2015 Page 4 of 7 (2) of the 2013 Act is unavailable in respect of such lands. The rationale to this has been explained by this Court in Mool Chand v. Union of India 2019(173) DRJ595DB]: 48. The third aspect of the case is that the

... Petitioner

admits that the land in question is part of an unauthorised colony. The very basis for seeking regularisation of an unauthorised colony is that it is located on land which belongs either to the public or to some other private parties. The

... Petitioner

s would therefore not have the locus standi to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularisation on the basis that they are in unauthorised colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19th December 2018 in WP(C) No.190/2016 (Harbhagwan Batra v. Govt. Of NCT of Delhi) and order dated 8th January 2019 in WP(C) No.10201/2015 (Gurmeet Singh Grewal v. Union of India) negatived similar pleas by the

... Petitioner

s who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.

50. In a decision dated 10th January 2019 in W.P. (C) 3623 of 2018 (Akhil Sibal v. Govt. of NCT of Delhi) this Court observed in this context as under: 18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private the constructions themselves are unauthorized. The major premise on which such regularization these constructions have been erected on public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets in any event, is sought land, but is that W.P.(C) 1054/2015 & W.P.(C) 5753/2015 Page 5 of 7 contradicted as some of them try to seek a declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable. 8. It has further been clarified by this Court that even where a colony has been regularized, if a Court were to grant relief under Section 24 (2) of the 2013 Act, it would strike at the very basis of the regularization. Unless the Court is asked to declare the

regularization to be illegal, no relief under Section 24 (2) of the 2013 Act can possibly be granted. It must be recalled that the object of regularization of an unauthorized colony, is to accord some legal sanctity to an otherwise imperfect right, title or interest of the several persons in the said colony. If this very basis were to be disturbed, it would result in chaos and confusion. It is for this reason that the Court has, while rejecting the prayer for a declaration under Section 24 (2) of the 2013 Act in respect of such lands, also being clarifying that the dismissal of the petition seeking such relief would not come in the way of the

... Petitioner

s pursuing their remedies for regularization.

9. Likewise, in the present petitions, this Court, for the reasons explained above, rejects the prayer for declaration of deemed lapsing of land acquisition proceedings under Section 24 (2) of the 2013 Act and the other reliefs sought. At the same time, this Court clarifies that the dismissal of the present petition will not prevent the

... Petitioner

s pursuing the writ petition stated to be pending before the learned Single Judge of this Court in accordance with law. The said writ petition would be dealt with and disposed of on its own merits. W.P.(C) 1054/2015 & W.P.(C) 5753/2015 Page 6 of 7 10. These petitions are accordingly dismissed. The pending applications are also disposed of. No costs. S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL23 2019 rd W.P.(C) 1054/2015 & W.P.(C) 5753/2015 Page 7 of 7

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com