

Delhi Development Authority Vs. Vakil Singh

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Court : Delhi

Decided On : Aug-28-2003

Reported in : 106(2003)DLT548; 2004(72)DRJ101; 2003RLR106

Judge : R.S. Sodhi, J.

Acts : [Delhi Development Act, 1957](#) - Sections 7, 8 , 30(1) and 31A; Land Acquisition Act - Sections 4 and 6; Code of Civil Procedure (CPC) - Sections 100

Appeal No. : RSA 39/1986

Appellant : Delhi Development Authority

Respondent : Vakil Singh

Advocate for Def. : Nemo

Advocate for Pet/Ap. : Rajesh Mahajan, Adv

Disposition : Appeal dismissed

Judgement :

R.S. Sodhi, J.

1. This appeal is directed against the judgment and order dated 19th October, 1985, of the Additional District Judge, Delhi in RCA No. 87/83, whereby the learned Judge has affirmed the findings of fact and law of the learned Sub Judge,

Delhi.

2. The brief facts of the case as noted by the Additional District Judge are as follows :

' ... that the respondent/plaintiff brought a suit for permanent injunction on the averments that he is the owner in possession of the plot of land

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measuring about 425 sq. yard situated in Khasra No. 32/1/L in village Vasant Nagar, Delhi with super structure built over it (hereinafter referred to as the property in suit). It bears municipal No. 179 A/1 and 201 and the same is assessed to House Tax. There is no notification u/s 12 that the property falls in development area. It is also not covered by any master plan or zonal plan u/s 7 and 8 of Delhi Development Act. The super structure on the plot is old one. The plaintiff was not served with any order for removal of the super structure u/s 30(1) of D.D. Act 1957. Even if there is an order of direction of demolition, the same is null and void because no notice u/s 30(1) of D.D. Act was served on the plaintiff; that the provisions of section 30 of the Act are not complied with. Lastly, the administrator did not follow the procedure prescribed by the rules made on the behalf as laid down under section 31A of the Act. The demolition was threatened on 16/2/74 forcing the plaintiff to bring the civil action.

3. The DDA filed written statement raising the defense that the land in suit was part of khasra No. 32/1/L village Vaset Nagar. It was duly notified u/s 4 and 6 of Land Acquisition Act and finally acquired through Award No. 1879. The possession was also taken over by the Government. The plaintiff is only a tress passer with no right, title or interest. The suit was also laid to be bad for non-joinder of UOI.

4. The Ld. Sub Judge framed the following issues :-

1. Whether the disputed property is situated in khasra No. 32/1/L village Vasant Vihar?

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2. Whether the plaintiff is owner in possession of the suit property? OPP

3. Whether the suit land has been acquired? If so, its effect?

4. Whether the suit is bad for the non-joinder of the Union of India? OPD

5. Whether the plaintiff is entitled to relief?

6. Relief.

5. All the issues were answered in favor of the plaintiff except that he was not found to be the owner though in possession. The suit was, therefore, decreed and DDA was permanently restrained from taking possession or demolishing super structure existing on the plot of land in khasra No. 32/1/IL Vasant Nagar otherwise than in due course of law.'

3. Heard learned counsel for the appellant and also perused the judgment under challenge. The first Appellate Court on going through the judgment under challenge and re-appraising the evidence on record, has concurred with the findings of the Trial Court. There being concurrent findings of facts of courts below, the same cannot be disturbed in the

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regular second appeal under Section 100 of the Code of Civil Procedure.

RSA 39/1986 is dismissed.

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