

Prem Chand Ramesh Chand Vs. Delhi Development Authority

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Court : Delhi

Decided On : Feb-25-1997

Reported in : 1997IIAD(Delhi)629; 66(1997)DLT110; 1997(41)DRJ195; 1997RLR275

Judge : Y.K. Sabharwal and; D.K. Jain, JJ.

Acts : [Delhi Development Act, 1957](#) - Sections 12

Appeal No. : Civil Writ Appeal Nos. 722, 730, 687, 691, 693, 713, 718, 723, 724, 725, 841, 689, 690, 714, 715, 71

Appellant : Prem Chand Ramesh Chand

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : Ramesh Chandra,; Suresh Singh,; Ravinder Sethi and;

Judgement :

Y.K. Sabharwal, J.

(1) This judgment will dispose of a bunch of writ petitions involving common questions and filed more than a decade and a half ago seeking issue of appropriate writ restraining respondent / Delhi Development Authority (DDA) from demolishing the structures of the petitioners. The interim orders restraining Dda from carrying out any demolitions and dispossessing the petitioners are continuing

since 1980.. Arguments were addressed in C.W. 730/80 (M/s. Prem Chand Ramesh Chand v. Dda & another) and, therefore, we will notice the facts of this case which lie in a narrow compass.

(2) The petitioner who claims to be the owner and in possession of structures / godowns bearing No. 27 on land out of Khasra No. 197 and situate in Revenue Estate, Village Haiderpur, Delhi, has, inter alia, pleaded in the writ petition that the land on which the godowns have been constructed has neither been acquired under any provisions of law nor the area has been declared as 'Development Area' as per Section 12 of the [Delhi Development Act, 1957](#) (for short 'DDA Act'). It has further been pleaded that the entire Revenue Estate of Village Haiderpur has been declared as Urban area and, therefore, Dda has no right, title or interest over the said area and Dda has no jurisdiction to deal with it. It has, therefore, been claimed that the threatened action is illegal, arbitrary and without jurisdiction.

(3) By Notification dated 24th October, 1961 issued by Chief Commissioner, Delhi, under Section 4 of the Land Acquisition Act, 1894, a large chunk of land including the land in question was proposed to be acquired for a public purpose, namely, planned development of Delhi. This was followed by Notifications issued under Section 6 of the Land Acquisition Act from time to time. On 18th July 1980 award (Award No. 50/80-81) in respect of this land and other land was made by the Land Acquisition Collector. Dda had been, however, restrained from carrying out any further demolition by orders passed by this Court on 1st June 1980. On 23rd July 1980 this Court further directed that there will be stay of demolition and dispossession till the decision of the writ petition.

(4) The main contention urged on behalf of the petitioner is that since the land in question is not part of development area, Dda has no jurisdiction over it and it can neither demolish the structures nor dispossess the occupants; It has further been contended that there is also a policy of the Government to regularise the unauthorised colonies and it is likely that the structures of the petitioner would also be regularised. In an affidavit filed in this court in the year 1992 a plea has also been taken that the Government has a policy not to acquire built up areas.

(5) The Dda with its reply affidavits has annexed copies of Notifications issued from time to time and also filed a Ferro print of the Zonal Development Plan for Zones H-4, 5 and 6. Undisputedly, according to the Notification dated 20th April 1968, the area in question falls within 'Development Area' No. 83 (Part of Zone H-6). This notification was issued under Section 12(1) of DDa Act declaring lands described therein as 'Development Areas'. The Zonal Development Plan shows that in the 'Development Area' No. 83 two places are shown as Villages - one as Village Haiderpur and the other as Village Shalimar. By Notification dated 16th August 1978, Sixty two Villages were denotified and thus excluded from 'Development Area'. Since Village Haiderpur and Village Basti Shalimar are also part of this Notification, the same were denotified and excluded from Development Area'. From the reading of these two Notifications, it is, however, clear that what was denotified out of the 'Development Area' No. 83 was only the area covered by the two Villages, Haiderpur and Basti Shalimar as shown in the Zonal Development Plan. The rest of the area falling within the 'Development Area' No. 83 (Part of Zone H-6) remained as 'Development Area'. The land in dispute is outside these two Villages and is part of 'Development Area' No. 83 (Part of Zone H-6). It thus continues to remain as 'Development Area. The entire area falling within the Revenue Estate of village Haiderpur has not been denotified but only area of village Haiderpur and Village Basti Shalimar was denotified. It may be noticed that Villages of Haiderpur and Basti Shalimar are merely part of Revenue Estate of Haiderpur. We are, therefore, of the view that the main contention that the area in dispute is not 'Development Area' and, therefore, Dda has no jurisdiction over it, is wholly misconceived. We may also notice that it is not even the case of the petitioner that any approval or sanction was obtained for the construction made on the land in dispute from the Municipal Corporation of Delhi or from any other local or competent authority.

(6) The contentions that there is any policy to regularise unauthorised colonies or there is a policy decision not to acquire built up area, are concluded against the petitioner by a Division Bench decision of this court in the case of Attar Singh v. D.D.A. (C.W.3110 of 1991) decided on 10th August 1992. In Attar Singh's case also it was alleged that the petitioner had a godown built up on an area situate in Village Haiderpur on private land and no action can be taken by the respondents

against the petitioner. In that case too, the Bench referred in the judgment to the same Award No. 50/80-81 made on 18th July 1980. The contention that there was a policy of Government to regularise the unauthorised colonies and also not to acquire built up area was rejected and it was observed that:- .

'IT was further contended that unauthorised colonies on Government land are sought to be regularised. It is possible that a political decision to this effect may be taken with regard to some of the colonies but as far as this land is concerned there have been valid proceedings for acquisition under the provisions of the Land Acquisition Act. If there was any built up area as on the date when Section 4 Notification was issued, the claimants would be entitled to receive compensation in accordance with law. As far as the petitioner is concerned, we do not find that the petitioner is entitled to any compensation and in fact it is one Udai Singh who has already received the compensation. Be that as it may merely because some of the colonies are going to be regularised cannot be of any assistance to the petitioner specially when, in the writ petition, there is no challenge to the acquisition proceedings. The proposal of excluding the land from the award which was there in 1968 has apparently been given a go bye and this has resulted in, first Notification under section 6 being issued on 2nd January, 1969, followed by the award in 1980.'

(7) The contention in respect of the policy of leaving out from the acquisition built up area has also been repelled in another Division Bench decision of this court in Shri Bhagwan and another vs. Union of India & Ors, 1991 (2) DL 59 . This decision has been affirmed by a Full Bench of this Court in Roshanara Begum v. Union of India, 1996 (1) Ad (Del) 6. We may also notice that the appeal filed against Full Bench decision has been dismissed by the Supreme Court (See Murari and others vs . Union of India and others, : (1997)1SCC15).

(8) Apart from above, the petitioner is not entitled to any discretionary and equitable relief for the reasons which we would presently notice. The petitioner has not filed any document of title on record except only a copy of Khasra girdhawari for 1979-80. It cannot and has not been urged to be a document of title. This khasra girdhawari only shows that there are some godowns on the land in

question. The petitioner is not the recorded owner. The recorded owner of the land are different persons. The petitioner has not even disclosed in the writ petition as to when the structures / godowns were constructed. It has also not been disclosed in the writ petition that in respect of land in question Section 4 and Section 6 notifications had been issued. It could not be disputed that the alleged constructions were made after issue of the said notifications. The petitioner has also not disclosed as to whether the recorded owners filed or not objections under Section 5-A of the Land Acquisition Act. These material facts were suppressed and not disclosed with a view to secure interim protection from this court. The demolition and dispossession could not take place because of the interim orders and, therefore, it does not now lie in the mouth of the petitioner to contend that the acquisition is not complete since possession has not been taken. We feel that the writ petitions deserve dismissal on the short ground of suppression of material facts.

(9) For the reasons aforesaid, all the writ petitions are dismissed with costs. Counsel fee quantified at Rs. 5,000.00 in each case.

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