

Court on Its Own Motion Vs. Delhi Development Authority and ors.

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Court : Delhi

Decided On : Apr-08-2013

Judge : S. Muralidhar

Appellant : Court on Its Own Motion

Respondent : Delhi Development Authority and ors.

Advocate for Def. : Mr. Sanjay Poddar, Mr. Sanjay Kumar Pathak, Ms. Sujata Kashyap, Mr. Ajay Verma, Mr. S.N.Gupta, Mr. V.S. Tomar, Mr. Brijesh Mishra, Mr. S.D. Sharma

Advocate for Pet/Ap. : Mr. A.S. Chandhiok, Mr. Bhagat Singh, Mr. Vidit Gupta

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI SB-1. + W.P. (C) No. 7057 of 2005 COURT ON ITS OWN MOTION Petitioner Through: Mr. A.S. Chandhiok, Senior Advocate/ Amicus Curiae with Mr. Bhagat Singh and Mr. Vidit Gupta, Advocates. versus DELHI DEVELOPMENT AUTHORITY & ORS. Respondents Through: Mr. Sanjay Poddar, Senior Advocate with Mr. Sanjay Kumar Pathak, Advocates for L&B Deptt. & LAC. Ms. Sujata Kashyap, Advocate for GNCTD. Mr. Ajay Verma, Advocate for DDA with Mr. S.N.Gupta, Director (LM), Mr. V.S. Tomar, Director (Systems), Mr. Brijesh Mishra, Commissioner (LM). Mr. S.D. Sharma, Senior Law Officer (LM). CORAM: HONBLE DR. JUSTICE S. MURALIDHAR HONBLE MR. JUSTICE RAJIV SAHAI ENDLAW % ORDER 08 04.2013 1. The Director, Land & Management (LM), Delhi Development Authority

(DDA) has filed an affidavit on 28th February 2013 pursuant to the order passed by this Court on 4th January 2013. A power point presentation has also been made to the Court. A hard copy as well as a soft copy of the presentation has also been submitted and shall form part of the record. Vacant land 2. Several issues have arisen as a result of today's deliberations. The first issue concerns the directions issued by the Court regarding possession of vacant land to be given to the DDA. The Court was informed at the previous hearing that out of 432.66 acres which was categorised as vacant land, possession of 144.60 + 45 acres of land had been recovered by the DDA. Today the Court is informed that possession of only 116.87 acres of vacant land was able to be given to the DDA. The explanation for this is that the Land Acquisition Collectors (LACs) of the concerned areas have since informed the DDA that the actual situation on the ground does not reflect information earlier furnished to the Court. For instance, by a letter dated 13th February 2013, the LAC (South) has written to the Deputy Secretary (LA), Land & Building (L&B) Department stating that the report with regard to various categories of land with Built-up Area, Religious Area, other areas in general and vacant area in particular has been submitted by the Revenue officials based on available records in this office without conducting of any field survey in this regard.

3. At (internal) page 35 of the affidavit dated 28th February 2013, a schedule for handing over/taking over physical possession of vacant land in 13 villages has been set out. It is seen from the said schedule that the dates had been fixed for the DDA to take possession of vacant land in several villages on different dates. For eg., possession of the vacant land in village Deoli was to be taken on 25th March 2013, in Chatterpur on 28th March 2013, in Maidan Garhi on 1st April 2013, in Syoorpur on 4th April 2013 and in Rajpur Khurd on 8th April 2013. Unfortunately, however, the Commissioner (LM) is unable to inform the Court whether in fact possession was taken of the vacant land on the scheduled dates and if not, the reasons therefor. No reports appear to have been called for from the teams that were assigned the task.

4. The Court is also now informed that what was thought to be vacant land is in fact not vacant land for various reasons. It is stated that some portion of the lands have built up structures which are unauthorised. However, there is no clarity on

what are the types of encroachments and the precise reasons for the difference in the two figures given to the Court as regards the extent of vacant land belonging to the DDA of which possession was to be given to it. The DDA and the LACs of the concerned areas will by separate affidavits to be filed by the next date explain the discrepancy in the figures of 144.60 + 45 acres and the revised figure now given and again of which possession was taken by the DDA of 116.87 acres of vacant land. The affidavits will also explain what transpired when the teams went to take physical possession of the vacant land on the dates mentioned in the schedule at (internal) page 35 of the affidavit dated 28th February 2013.

5. As per the schedule, on 11th April 2013 a joint team of the DDA officials and the concerned LACs and Revenue officials with the necessary support intend to visit the Satbari village which is stated to have 60 bighas of vacant land of the DDA. A team is also supposed to visit Khanpur village on 15th April 2013. The detailed reports of the teams undertaking the said visits countersigned by the officials of the DDA, the LACs concerned and the Revenue officials will be enclosed with the affidavits to be filed by the DDA and the LAC. The photographs of the taking over of possession and fencing of the land taken possession of will also be enclosed. The Court has explained to the officers present in Court the manner in which photographs should be taken, the description of the property (in particular of the boundaries) that should be set out below the photographs, the evidence of fencing, the date and time stamp to be embedded in the photographs, etc. which should be countersigned by the officials of the DDA, the LAC concerned, the Revenue Officials indicating the name of the person who has taken the photographs. These details are lacking in some of the photographs shown to the Court today. Further a specific direction is issued that as regards each of the photographs shown to the Court today a follow-up photograph of the latest position at least three days prior to the next date of hearing should be shown to the Court on the next date.

6. The Court notes with some concern that the Vice Chairman (VC) of the DDA has not yet been shown these photographs as well as the details contained in the affidavit filed in Court. The Court requires the VC, DDA to remain present on the next date of hearing since the issues that arise for consideration in this matter are

of serious concern. Value of the land yet to be recovered by the DDA 7. The second issue which has engaged the Court is the value of land which is yet to be recovered by the DDA. A conservative estimate has been given in para 7 of the affidavit dated 28th February 2013 which has been worked out on the basis of circle rates for agricultural land. Even on that basis the value of lands, belonging to DDA, the possession of which is yet to be recovered by the DDA is a staggering figure of Rs.7035.2147 crores!! The realistic figure would be several times higher considering that these are lands in respect of which land acquisition Awards have been passed nearly 10 years ago and there is buying and selling of property in these areas.

8. The Court is dismayed to note that the seriousness with which the DDA and the LACs have approached the issue is woefully inadequate. Steps ought to have been taken on a war footing to recover the precious vacant land that belongs to the DDA. Teams ought to have to been deployed on a daily basis for this exercise. Each day the vacant land remains unrecovered there is every likelihood of it being encroached upon. This should be prevented at all costs. This is one more reason why the Court requires the VC, DDA to remain present in Court on the next date. The Court is of the view that he should personally supervise these operations.

9. In light of what has been stated above, the Court also requires the Secretary, Revenue as well as the Secretary, Home Department, Government of National Capital Territory of Delhi (GNCTD) to remain personally present on the next date. Religious structures 10. The Court has been told that as regards encroachments on DDA land in the form of religious structures, in compliance with the directions issued by the Court on 4th January 2013, the DDA wrote to the Principal Secretary, Home Department, GNCTD on 27th February 2013 placing before the Committee headed by the Lt. Governor (LG) the complete details in respect of lands to an extent of around 28 acres. The decision of the Committee is stated to be awaited.

11. Ms. Sujata Kashyap, learned counsel appearing for the GNCTD states that although this Court had required the Secretary, Urban Development, GNCTD to apprise it of the steps taken in this regard, he is not the concerned officer. She

states that the Committee comprises of officers of the Delhi Police, the DDA and the Home Department of the GNCTD.

12. The Principal Secretary, Home Department of GNCTD will file an affidavit before the next date informing the Court of the decision of the Committee in response to the letter written to it by the DDA on 27th February 2013 and the detailed steps that he proposes to take in respect of the lands on which religious structures are shown to exist. Decision on the representations in regard to other lands of the DDA 13. Another aspect of the matter is that the lands belonging to DDA which are yet to be recovered also comprise of lands in respect of which there are stay orders passed by different Courts or in respect of which applications for de-notification have been made under Section 48 (1) of the Land Acquisition Act, 1894 (Act). It is shown that in respect of these applications the decision of the Denotification Committee and the LG is awaited. The Secretary, L&B Department is stated to be the Chairperson of this Committee. The details of such lands have been annexed as List of Cases of De-notification of land under Section 48 (I) of the Land Acquisition Act, 1894 pending with L&B Department, GNCTD to the affidavit dated 28th February 2013.

14. The Secretary, L&B Department will file an affidavit before the next date explaining the current status of the above applications.

15. List on 17th April 2013 at 3.30 pm.

16. Learned counsel for the parties have assured the Court that they will communicate the order today itself to the concerned officers for compliance.

17. A copy of this order be given dasti under the signature of the Court Master. S. MURALIDHAR, J RAJIV SAHAI ENDLAW, J APRIL 08 2013 dn

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