

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

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Court : Delhi

Decided On : Apr-17-2013

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, Mr. G.P. Srivastava, Mr. Vinay Kumar, Mr. Ajay Kumar, Mr. Ranjeet Singh, Mr. Manoj Dwivedi, Mr. M.T. Kom, Mr. Shamim Akhtar, Mr. S.S. Parihar, Ms. Sujata Kashyap, Mr. Ajay Verma

Advocate for Pet/Ap. : 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. Bhagat Singh and Mr. Vidit Gupta, Advocates. versus DELHI DEVELOPMENT AUTHORITY & ORS. Respondents Through: Mr. Sanjay Poddar, Senior Advocate with Mr. Sanjay Kumar Pathak, Advocate for L&B Deptt. & LACs with Mr. Dharam Pal, Secretary (L&B) & Secretary (Revenue) Mr. G.P. Srivastava, Legal Advisor Mr. Vinay Kumar, Addl. Secy. (L&B) Mr. Ajay Kumar, LAC (South East) Mr. Ranjeet Singh, LAC (East) Mr. Manoj Dwivedi, LAC (South) Mr. M.T. Kom, LAC (West) Mr. Shamim Akhtar, LAC (North) Mr. S.S. Parihar, LAC (North West) 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). Mr. G.P. Singh, Addl. Secy. (Home Department) Mr. Diptivilasa, Vice Chairman, DDA CORAM: HONBLE DR. JUSTICE S. MURALIDHAR HONBLE MR. JUSTICE RAJIV SAHAI ENDLAW % ORDER 17 04.2013 1. Pursuant to the order passed by the Court on 8th April 2013, Mr. Diptivilasa, Vice Chairman (VC) of the Delhi Development Authority (DDA) is present in Court. Vacant lands of the DDA 2.The DDA has tendered an affidavit dated 16th April 2013 in the Court of the Director (Land Management), DDA. It is explained that subsequent to the filing of the pervious affidavit dated 28th February 2013, possession of further 3.05 acres of land was obtained by DDA, thus thereby raising the total land of which possession was taken over as 200.37 acres out of the total extent of 432.66 acres of the land stated to be vacant at the site as also from out of the other categories. The break-up of the lands that have been taken over by DDA is as under: Vacant land :

119. 05 acres Land forming part of unauthorised colonies :

8. 26 acres Other built up lands WP (C) No. 7057 of 2005 :

3. As a result of the joint survey undertaken with the Land Acquisition Collectors (LACs), it has been found that 137.78 acres of land, out of the 432.66 acres of land that was earlier shown as vacant by the LACs has been found to be built up at site. After accounting for the land of which possession has been taken and that has been built up, there is a balance of approximately 175.83 acres of land remaining. It is now stated that the joint inspection of 13 South Delhi villages has revealed that acquisition proceedings in respect of large tracts of land have been quashed by the Division Bench (DB) of this Court. As regards the other villages, a schedule has been drawn up for conducting of joint survey and taking possession. The schedule has been set out for South East Delhi in para 10 and for North Delhi in para 13. As regards the joint survey of village Satbari, it is stated in para 12 that a joint team of revenue officials of DDA and the concerned LAC visited village Satbari on 11th April 2013 and took possession of 4 bighas and 16 biswas of land. It was found that the land acquisition proceedings in respect of the remaining land have been quashed by this Court. Certain other joint surveys fixed for 15th, 19th

and 28th March 2013 could not be carried out due to the revenue officials not attending. In respect of Narela, it is stated that the revenue record showed that the possession of the land had already been obtained by DDA in 2005-2006 and the other khasra nos. were found under unauthorized occupation of Mansa Devi temple.

4. The progress of the joint surveys and taking possession of the lands is totally inadequate, considering the total extent of land belonging to DDA which has not come into its possession is over 15,000 acres. Of this extent, the Court has been focusing, for more than a year now, on how DDA can recover the lands of a relatively small extent of 432.66 acres which were stated to be vacant land.

5. The VC, DDA, assures the Court that he will be constituting teams of 2 to 3 DDA officials to conduct joint surveys with the LACs concerned and take possession of as much of the lands of DDA which can be taken possession of. He states that he himself will monitor the joint surveys and call for reports from the teams on the same evening of every such joint survey. He further states that he will ensure simultaneous deployment of teams for fencing of DDAs land. Modern fencing techniques will be explored. Importantly, the aerial/satellite maps, the aks sijra and the rough sketches of the lands of the DDA of which possession is taken will be prepared simultaneously. DDA will also have Geo Station Aerial Survey maps prepared of the areas taken possession of and place them before the Court with an affidavit by the next date. The said maps will indicate the exact location with coordinates. In addition, the ground map will show the boundaries with description, and the exact extent of land with measurements. It is reiterated that a videograph and photographs will be taken of the entire exercise. It may be mentioned at this stage that DDA has today shown the video of the exercise undertaken in village Satbari on 11th April 2013 and has also placed photographs of the lands of which possession were taken earlier. Much needs to be done to install a proper fencing and also complete fencing where it has yet not been completed. The VC, DDA assures the Court that this exercise will be undertaken in right earnest.

6. DDA will be extended full police assistance if it seeks such assistance, to ensure that the possession of lands and the fencing of lands take place without any hindrance. The VC, DDA will ensure that the teams constituted by him to undertake the exercise work with a sense of responsibility. They will ensure that the lands of the DDA that are recovered are properly protected. The VC will fix the responsibility on the concerned teams for ensuring this. As far as possible, the teams should not be changed except where they are unable to perform in the manner expected of them, in which case they should be replaced with more efficient personnel.

7. The Court would like to emphasise that a very large extent of land of DDA remains to be recovered and no time can be afforded to be wasted. The efforts of the joint teams of the LACs concerned and the officials of DDA fixed for a particular date should not be a futile effort. The VC, DDA must monitor the situation and ensure that the targets fixed for taking possession of DDAs land are met on every date. Religious structures:

8. An affidavit has been filed by the Additional Secretary (Home Department), Government of National Capital Territory of Delhi (GNCTD). It is stated that the meetings for the Religious Committee headed by the Lieutenant Governor (LG) were resumed pursuant to a note dated 23rd October 2012 of the LG. Two meetings of the Religious Committee have been held on 18th January 2013 and 20th March 2013. The minutes of the said meetings have been enclosed with the affidavit.

9. It is stated that a letter has been written on 13th March 2013, followed by a reminder dated 10th April 2013, to the Special Branch, Delhi Police requesting it to furnish detailed information in respect of DDAs letters dated 11th January 2013, 15th February 2013 and 21st February 2013. It is stated in para 8 of the affidavit that the cases referred to the Religious Committee by the DDA will be placed before the Religious Committee as soon as the report of Special Branch of Delhi Police is received.

10. The Court would like to observe that the input of the police is required on the aspect of law and order. In response to a query by the Court as to the nature of

information sought from the Delhi Police by the Religious Committee, the Court was informed both by Mr. G.P. Singh, Additional Secretary (Home) as well as the Principal Secretary (Home) that in the past there were instances where the information furnished by the DDA was different from the information later gathered by the police as regards the nature, extent and location of encroachment. However, no such particular instance has been cited in the affidavit or pointed out to the Court. There was no need for the Religious Committee to have further sought information from the Special Branch of the Delhi Police in regard to the information furnished to it by DDA on the aspects of the extent, type and location of encroachment. A reference to the Special Branch of the Delhi Police in this regard will inevitably delay the matter further.

11. Consequently, the Court directs that the Religious Committee need not wait for the report of the Special Branch of Delhi Police as regards the information furnished by the DDA. If the Religious Committee requires any further clarification or confirmation, it can write to DDA or LAC within one week from today and such information will be provided to it by the DDA or LAC within two days thereafter. The Religious Committee will meet within next ten days to consider the letter written to it by the DDA on 27th February 2013. The Additional Secretary (Home Department) will place on affidavit the decision of the Religious Committee thereon by the next date.

12. Additionally, the Religious Committee will immediately call for the reports from the Station House Officers of the concerned police stations within whose jurisdiction the lands belonging to DDA, as mentioned in the letter dated 27th February 2013, are located, to inform the Religious Committee as to how many unauthorised religious structures exist on such lands and since when. The information be tabulated and placed on affidavit by the Additional Secretary (Home Department), GNCTD by the next date. Section 48 of Land Acquisition Act

13. The affidavit dated 16th April 2013 filed by the Secretary, Land and Building Department (L&B Department), GNCTD has been perused. The current status of the applications made for de-notification under Section 48(1) of the Land Acquisition Act, 1894 awaiting the decision of the Denotification Committee and of

the LG has been enclosed as Annexure R-4 to the affidavit.

14. Mr. Sanjay Poddar, learned Senior counsel appearing for L&B Department, GNCTD informs the Court that of the 127 cases that were pending consideration, 49 cases were taken up by the Denotification Committee at a meeting held on 15th April 2013. Of these, 24 cases have been recommended by the Committee for rejection and are awaiting final decision of the LG. As regards 24 cases, letters have been written to the DDA for certain information.

15. Mr. Ajay Verma, learned counsel for the DDA, states that the said information will be provided by the DDA to the Denotification Committee within two weeks from today.

16. Mr. Sanjay Poddar states that the Denotification Committee will meet once in a month and dispose of all the remaining applications within a period of two months from today. The Court directs the Denotification Committee to definitely have one meeting before the next date of hearing. The L&B will file an affidavit before the next date updating the status of pending applications.

17. List on 22nd May 2013 at 3.30 pm.

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

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