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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 289/2022, CM APPL. 21185/2022-Delay 54 days.

DELHI DEVELOPMENT AUTHORITYAppellant

Through: Ms. Manika Tripathy, Standing
Counsel for DDA with Ms. Latika Malhotra and
Mr. Gautam Yadav and Mr. Sanjay Singh, Advs.

versus

RAVI PRAKASH SHARMA & ANR.Respondents

Through: Mr. Kunal Mittal, and Ms. Rishika,
Advs. for R-1.

Mr. C. Mohan Rao, Senior Adv. with Mr. Ambuj
and Mr. Lokesh Kumar Sharma, Advs. for R-
2/Society.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

21.01.2025

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1. The present Appeal preferred by the Delhi Development Authority (DDA) under Clause X of the Letters Patent seeks to assail the order dated 03.02.2022 passed by the learned Single Judge in W.P.(C) 10036/2020. Vide the impugned order, the learned Single Judge has allowed the writ petition preferred by the respondent no. 1 by directing the appellant/DDA to demarcate the portion of the land the respondent no. 1 in plot no. 12 at Shankar Vihar, Vikas Marg, New Delhi-110092 of which the respondent no.1 is the owner.
2. While issuing the aforesaid directions, the learned Single Judge took into account that four adjoining plots being plot nos. 9, 10, 11 & 12 exist at the site and had initially been encroached upon by unauthorized persons. After removal of the said encroachment, three



plots i.e. plot nos. 9, 10 & 11 were allotted to the Gurudwara Shri Guru Singh Sabha which is admittedly in possession of these three plots.

3. The sole submission of learned counsel for the appellant is that the appellant had never made any allotment in favour of the respondent no.1 and, therefore, he is not entitled to any portion of the land in plot no.12. She submits that the Registrar of the Cooperative Societies (hereinafter “the RCS”) had in the year 2007 indicated that all members of the respondent no.2/ society had already been allotted plots as per their as per their entitlement and there was no other waitlisted member. By placing reliance on Section 77 of the Delhi Cooperative Societies Act, 2003 and Rule 90 of the Delhi Cooperative Societies Rules, she submits that though the appellant had received the entire sale consideration qua plot no.12 from the respondent no.2/ society, no allotment could be made in favour of respondent no.1 without any recommendation from the RCS. She, therefore, contends that the learned Single Judge has erred in directing the appellant to demarcate the land in plot no.12 such that the respondent no.1 could take possession of the portion of which he claims to be the owner.
4. On the other hand, Mr. Rao, learned senior counsel for the respondent no.2/Society and Mr.Mittal, learned counsel for respondent no.1, oppose the appeal by urging that once the appellant had, admittedly, received the entire sale consideration qua plot no. 12 from the respondent no.2/Society, it is not open for the appellant to now urge that it will not demarcate the said land as per the recommendations made by the respondent no. 2 on 03.08.1993 itself. They further



submit that even otherwise, it is not the case of the appellant that either the RCS or any other member of the society have ever raised any grievance qua the recommendations for allotment made in favour of the respondent no. 1 in 1993, which allotment he contends, was made by the Society only upon receiving the due sale consideration from the respondent no. 1.

5. Having considered the submissions of learned counsel for the parties and perused the record, we are inclined to agree with the learned counsel for the respondents that once the appellant had received the entire sale consideration for plot no. 12 in the year 1976 itself, it was not open for the appellant to now claim ownership qua the said plot of land. Moreso, when we find that it is not even the appellant's case that it had ever tried to return the sale consideration received from respondent no.2 qua plot no. 12. In this regard we may refer to paragraph nos.4 and 5 of the impugned order, which read as under:-

“4. The four plots came up for demarcation and allotment because they were earlier encroached upon and after the removal of encroachment, part of three plots i.e. plot nos. 9, 10 & 11, were allotted to the Gurudwara. It has been agreed by the Society that the strip of land forming a part of plot no. 12 be allotted and merged with the petitioner's land i.e. plot no.13. The petitioner had paid the monies as demanded by the Society couple of decades ago. The DDA had handed over the property to the Society way back in the 1980's. There is no fresh membership created, only the land which was otherwise left open and unutilised has been sought to be put to optimal use, in the wisdom of the Society.

5. In terms of the response affidavit of R-2/Society, to the status report of DDA dated 07.04.2021, the DDA would have



no say in the matter apropos the land handed over to the Society, and there is no creation of fresh membership therefore, the role of the RCS would not be necessary.”

6. In the light of the aforesaid, even if we were to accept the plea of the appellant that no allotment could have been made in favour of respondent no. 1 as no recommendation to this effect had been made by the RCS, nothing much would turn on this as we find that the respondent no. 2 had, against valid consideration received from respondent no.1, made recommendations for allotment of a portion of plot no.12 in favour of respondent no.1 way back on 03.08.1993. This, we are informed, was to enable the amalgamation of plot no.13 of which respondent no.1 is the owner with part of the adjoining plot no.12. Further, we are of the view that once the appellant does not deny that it had received the entire sale consideration qua plot no. 12 from respondent no.2, it is now too late in the day for the appellant to urge that the same plot belongs to them.
7. We, therefore, find no reason to interfere with the impugned order. The appeal alongwith the pending application being meritless, is accordingly, dismissed.

REKHA PALLI, J

SAURABH BANERJEE, J

JANUARY 21, 2025/acm