



\$~75

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4667/2019 & CM APPL. 20702/2019 (*for interim directions*), 20703/2019 (*for exemption*)

ADITYA NARULA

..... Petitioner

Through: Mr. A.K.Singla, Sr. Adv. with
Mr. Amardeep Maini, Adv.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Ms. Mrinalini Sen, SC for DDA
with Ms. Tanmay Yadav, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

%

01.05.2019

CM APPL. 20703/2019 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 4667/2019 & CM APPL. 20702/2019 (for interim directions)

3. Ms. Mrinalini Sen, learned Standing counsel for the DDA, places reliance on paragraphs 5 and 8 of the judgment dated 29th April, 2014, of a learned Single Judge of this Court in RSA 16/2013 annexed as Annexure 'F' to the writ petition. The said paragraphs read thus:

“5. Counsel for the appellant, on instructions from the appellant, states that the appellant does not claim possession with respect to 4 biswas of land forming part of khasra No.31/7 and if any part of property of which the appellant/plaintiff is in possession falls in any part of khasra No.31/7 of 5 bighas and 12 biswas,



respondent/defendant is; free-to take action with respect to possession of the balance 4 biswas which is about 200 sq yds. It is further clarified that since it is not disputed, on behalf of the appellant/plaintiff that the entire khasra no.31/7 has been acquired, the appellant/plaintiff will not object to taking over possession of any part of. khasra no.31/7 by the respondent/defendant.

8. Accordingly, the sum and substance of the discussion with respect to the issues is that *the appellant/plaintiff will have no rights whatsoever in the land comprised in khasra nos.31/7 and 31/14-17 and if the appellant/plaintiff is in actual possession of any part of these khasra numbers, respondent/defendant on demarcation so finds that the appellant/plaintiff is found on any part of khasra nos.31/7 or 31/14-17, the respondent can take possession of such land or that authority can which is entitled in law to take possession of the land in khasra nos.31/7 and 31/14-17.*”

(Emphasis Supplied)

4. Mr. A. K. Singla, learned Senior counsel for the petitioner, emphatically contends that the case of the DDA, all along, in all the proceedings so far, including the proceedings before the learned Single Judge in RSA 16/2013 was that its entitlement was to 5 Bighas and 8 Biswas alone, comprising part of Khasra no. 31/7.

5. Mr. Singla has also invited my attention to the demarcation report of the DDA, consequent to the directions of the learned Single Judge in the above judgment dated 29th April, 2014, figuring at page 104 of the paper book which indicates that the total land in Khasra No. 31/7 comprises 5 Bighas 12 Biswas. The submission of Mr. A. K. Singla is that his claim is only in respect of the 4 Biswas which was in excess of the 5 Bighas and 8 Biswas, which alone was granted to the



DDA in 1986 and over which the DDA has, throughout, been claiming its rights. As such, he submits that, even, before the learned Single Judge deciding RSA 16/2013 on 29th April, 2014, the DDA could not have had any right in excess of 5 Bighas and 8 Biswas in Khasra no. 31/7; neither could the right of his client, in respect of the remaining 4 Biswas in the same Khasra, be foreclosed.

6. Mr. A. K. Singla has also drawn my attention to a notification dated 30th October, 1986, annexed as Annexure-A to the writ petition, to point out that the area under the control of the DDA was only 5 Bighas 8 Biswas.

7. While the submission of the Mr. A. K. Singla undoubtedly merits consideration, I am of the view that, *prima facie*, before the said submission could be considered, it may be necessary for the petitioner to move for a clarification/modification of para 8 of the judgment dated 29th April, 2014 (*supra*) in RSA 16/2013.

8. On this point of view being made known to Mr. A. K. Singla, he requests that the matter may be renotified on some other date in order for him to take instructions.

9. Accordingly, renotify on 13th May, 2019.

Order be given *dasti* under the signature of the Court Master.

C. HARI SHANKAR, J

MAY 01, 2019/bh