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

+ **W.P.(C) 12742/2024 & CM APPL. 53099/2024**

VIKAS KHATRI AND ANRPetitioners

Through: **Mr. Rakesh Tiku, Sr. Adv. with
Mr. Sandeep Kumar, Adv.**

versus

DELHI DEVELOPMENT AUTHORITYRespondent

Through: **Mr. Anuj Chaturvedi and Ms.
Harishita Maheshwari, Advs.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **11.09.2024**

CM APPL. 53100/2024 – EXMP.

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

W.P.(C) 12742/2024 & CM APPL. 53099/2024

3. The petitioners are invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950 seeking quashing of the impugned orders/letters dated 06.09.2021, 28.08.2021 and 03.07.2021 issued by the respondent/DDA³ thereby rejecting the applications of the petitioners for seeking benefit of PM-Uday Scheme in respect of the subject properties that are built-up properties as well as having open land comprised in house Nos. 56,57,58 falling in village Kishan Garh, Mehrauli, New Delhi-110070 measuring a total area of 3550 sq. yards, besides seeking other appropriate reliefs.

³ Delhi Development Authority



4. Learned counsel for the respondent/DDA is present on advance notice, who requests time to seek instructions.
5. Learned counsel for the petitioners, however, seek interim relief.
6. Having heard the learned senior counsel for the petitioners and on perusal of the record, it appears that the father of the petitioner No.1 claimed himself to be the owner and in possession of the subject properties falling in *khasra* No. 2728/1674/2 (3-03) and 2728/1674/3 (1-01) total measuring 4 Biswa, situated in the revenue village-Kishan Garh, New Delhi-110070.
7. As per the notification dated 17.09.2008 issued by the GNCTD⁴ village Kishan Garh came to be notified as an unauthorized colony for the purposes of regularization. It appears that on 20.12.2013 he applied for demarcation of the property and the demarcation was then effected by the concerned *Patwari* on 27.03.2014 bringing out that an open area of 2695 sq. yards had been left out, which was respondent/DDA's land but adjacent to the constructed subject properties.
8. The long and short of the submissions made by the learned senior counsel for the petitioners is that in order to ameliorate the hardships of the occupants of the unauthorized colony, the Ministry of Housing and Urban Affairs came out with a Scheme, namely PM-Uday (Unauthorized Colonies in Delhi Awas Adhikar Yojna) while simultaneously bringing into force the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorized Colonies) Act, 2019 thereby proposing to transfer the ownership rights to the occupants in the aforesaid unauthorized colonies on transfer of a certain nominal amount. It is submitted that applicant/petitioner filed



three separate applications in respect of property Nos. 56, 57 and 58 Village Kishan Garh, New Delhi, which had a total open as well as constructed area measuring 3550 sq. yards. It is submitted that although it was clearly shown in the applications that the subject properties are beyond 45 mts. from the central verge/median of the road, the said applications have been rejected on the ground that they are “*inside the purview of right of way of existing roads/ master plan roads*”.

9. Learned senior counsel for the petitioners has pointed out that previously, the guest house being run by the petitioners in the name of ‘Pluto’ in the adjoining property, which is aligned parallelly with the subject properties, had been sealed by the Monitoring Committee of the Supreme Court on the ground of encroachment over the DDA land, and an appeal was filed before the Judicial Committee, which *vide* order dated 27.03.2023 categorically held that there was no encroachment on the DDA land since the said property was evidently beyond 45.25 mts. from the central verge/median.

10. It is submitted that despite the report of the *patwari* dated 27.03.2014 and aforesaid decision by the Judicial Committee *vide* order dated 27.03.2023, which was even sustained in the LPA⁵ No. 183/2016 by this Court thereby holding that the adjacent plot on which ‘Pluto’ guest house was constructed, was away/beyond 45 mts. from the central verge/median, the respondent/DDA has rejected the applications of the petitioner for regularization, on the premise that Green Buffer of 60 mts. is to be maintained from the central verge/median.

⁴ Government of National Capital Territory of Delhi

⁵ Letters Patent Appeal



11. The provocation of filing the present writ appears to be a letter dated 06.05.2024 whereby it appears that a joint inspection was done at the site and a Police Station is proposed to be constructed on the subject land by way of temporary allotment of land to the Delhi Police.

12. The issues raised by the learned counsel for the parties require a deeper examination.

13. Let instructions be availed by the learned counsel for the respondent/DDA and a short affidavit with relevant documents be filed within six weeks from today, if so advised.

14. In the meanwhile, the respondent/DDA is restrained from taking any coercive measures in respect of the open land measuring 2695 sq. yards, which is in front of the house No. 56 to 58 village Kishan Garh, New Delhi in any manner till further orders of this Court.

15. Alternatively, the respondent/DDA may consider the present writ petition as a fresh representation by the petitioners and after hearing them pass a reasoned order within six weeks from today in accordance with law.

16. Re-notify on 26.11.2024.

DHARMESH SHARMA, J.

SEPTEMBER 11, 2024/sm