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

+ RSA 137/2014, CM No.9507/2014 (u/O 41 Rule 5 CPC for stay)

**DELHI URBAN SHELTER IMPROVEMENT
BOARD**

..... Appellant

Through: Mr.Parvinder Chauhan, Standing
Counsel for DUSIB

versus

SATVIR SINGH & OTHERS

..... Respondents

Through: Mr.M.M. Agarwal, Adv. for R1 to R3
and R5 and R6
Ms. Renu Gupta, Adv. for R8

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

16.07.2018

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1. The counsel for the appellant has been partly heard. However, it appears that the entire trial court record is not available with the counsel for the appellant. The counsel for the appellant is granted liberty to read the trial court record requisitioned in this Court and, if so desires, to also obtain copies thereof from the Court Master. The counsel for the respondents/ plaintiffs on enquiry states that he has also not gone through the trial court record. He is also granted the same liberty as the counsel for the appellant/defendant.

2. However, for aiding memory, it is deemed appropriate to record:

(a) That this Second Appeal arises from a Suit filed by the respondents/ plaintiffs against the MCD for rehabilitation under a scheme formed by the GNCTD. GNCTD was however not

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impleaded as a party to the suit. The slum wing of the MCD, since substituted by DUSIB entrusted under the scheme to carry out the survey and which else had no scheme of its own and was the implementing agency, only was impleaded as defendant.

- (b) It appears that without the GNCTD, the suit from which this appeal arises was not maintainable.
- (c) It is the contention of the counsel for the appellant/DUSIB that rehabilitation is not a matter of right and the right is only for consideration; that under the scheme/policy, only such persons who were found in possession during the survey to be conducted in this regard, were eligible; that the respondents/plaintiffs, during the survey, were not found in possession and the Civil Court had no jurisdiction to interfere in such a matter.
- (d) I have, however, enquired from the counsel for the appellant/DUSIB as to what is the remedy of a person who though eligible has been left out in the survey.
- (e) Though the counsel for the appellant/DUSIB has contended that the remedy would be by a writ petition, but I have further enquired whether not on writ petition being filed, pleas are taken of the same raising a disputed question of fact.
- (f) It is also the contention of the counsel for the appellant/DUSIB that though several of the seven respondents/plaintiffs gave the address of one jhuggi only, the judgment and decree impugned reads as if each of the respondents/plaintiffs has to make a separate allotment. It is argued that all those who have address of one



jhuggi only together would be entitled to one alternate allotment if at all under the policy. It is further pointed out that under the policy also, certain payment have to be made by the allottees found eligible and the decree does not make a provision thereof as well. It is yet further contended by the counsel for the appellant that the respondents/ plaintiffs, in the plaint admitted dispossession and as of today, there is a hospital existing on the subject land and a decree in so far as restraining the appellant/DUSIB from dealing with the land is not in accordance with law.

3. List on 16th October, 2018.

RAJIV SAHAI ENDLAW, J

JULY 16, 2018
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