

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8295 OF 2016

(Arising from SLP(C) No.24104/2012)

Delhi Development Authority ..Appellant

versus

Neelam Saluja ..Respondent

WITH

CIVIL APPEAL NO. 8296 OF 2016

(Arising from SLP(C) No.35735/2012)

Delhi Development Authority and others ..Appellants

versus

Shanti Swaroop Goyal and others ..Respondents

O R D E R

Civil Appeal arising from SLP(C) No.24104/2012

Leave granted.

We have heard learned counsel for the rival parties, and perused the record.

While disposing of the controversy, the High Court allowed two options to the Delhi Development Authority. The first option was recorded in paragraph 22 of the impugned order, which is extracted hereunder:

"....We permit DDA to hold an inquiry on the subject: Whether the will dated 18th November, 1978 executed by late Sh. Dayal Singh Narang in favour of the respondent was for consideration or not. If the result of the inquiry holds that the will was not for consideration, the mutation sanctioned in favour of the respondent would be given effect to by DDA. If DDA holds to the contrary, the respondent would be entitled to maintain an action under the conversion policy by moving necessary application before DDA."

The second option was recorded in paragraph 24 as under:

"24. Needless to state, if the respondent were to seek conversion under the conversion policy by

paying 33 1/3% excess conversion fee, DDA would then not hold any inquiry on the subject whether the will was for consideration. The reason is obvious. To buy peace, the respondent would be prepared to proceed ahead by treating that it is a case of sale/transfer of property under the will."

In order to assail the judgment rendered by the High Court, learned counsel for the appellant has placed reliance on the decision rendered by this Court in Delhi Development Authority vs. Vijaya C. Gurshaney (2003) 7 SCC 301. We are afraid, it is not possible for us to apply the aforesaid judgment to the controversy in hand, on account of the observations recorded by this Court in paragraphs 4 and 5 in the above judgment, which are reproduced below:

"4. The High Court has not at all adverted to the terms and conditions stipulated in the perpetual lease deed executed between DDA and the deceased Ram Dhan, on the basis of which two impugned letters in the writ petition have been issued. This is where the High Court had sidetracked the main issue and decided an issue, which was not at all relevant in the facts and circumstances of the case. It was the specific case of the appellant (respondent before the High Court) that the will was actuated by monetary consideration and was in fact a sale. It was also the specific case of the appellant that it was actually a transfer of land to non-blood relation of the deceased Ram Dhan and was in violation of the terms and conditions stipulated in the lease deed and therefore, the respondent was liable to pay 50% of unearned increase in the value of the property.

5. The High Court although extracted the relevant clauses of the terms and conditions of the lease and referred to the policy decision of DDA but the same were not at all adverted to while reaching the conclusion. In our view, the High Court, in its impugned order has not at all adverted to the relevant issues and decided the case totally based on unfounded grounds."

We are satisfied, that in the first option, the DDA has the choice to establish the factual position affirmed in the judgment relied upon, and accordingly, to apply the clauses in question seeking unearned increase. We are of the view, that if the DDA really wishes to establish, that the will executed by Dayal Singh Narang, the original sub-lessee was not genuine, it is still open to the DDA to do so. However, in such eventuality, it will have to conform with the procedure contemplated, and to follow the rules of natural justice.

In view of the above, we find no justification whatsoever to interfere with the impugned order passed by the High Court.

The instant appeal is accordingly dismissed.

Civil Appeal arising from SLP(C) No. 35735/2012

Leave granted.

Learned counsel for the appellants states, that in view of the decision rendered by this Court in Delhi Development Authority vs. Neelam Saluja (Civil Appeal arising from SLP(C) No. 24104/2012, decided on 23.08.2016), nothing survives insofar as the present appeal is concerned, and the same be disposed of in terms of the Neelam Saluja's case (supra).

Accordingly, this appeal is dismissed in terms of the order passed by us today, in Neelam Saluja's case (supra).

.....J.
[JAGDISH SINGH KHEHAR]

NEW DELHI;
AUGUST 23, 2016.

.....J.
[ARUN MISHRA]

ITEM NO.9

COURT NO.3

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 24104/2012

(Arising out of impugned final judgment and order dated 02/01/2012 in RFA No. 43/1997 passed by the High Court Of Delhi At New Delhi)

DELHI DEVELOPMENT AUTHORITY

Petitioner(s)

VERSUS

NEELAM SALUJA

Respondent(s)

(with interim relief and office report)

WITH

SLP(C) No. 35735/2012

(With (With appln.(s) for permission to file additional documents and appln.(s) for stay and Interim Relief and Office Report)

Date : 23/08/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s) Ms. Binu Tamta,Adv.

For Respondent(s) Mr. Saurabh Kirpal, Adv.

In SLP 24104/12 Mr. Siddharth Thakur, Adv.

Mr. Anurag Sharma, Adv.

for Mr. Navin Chawla,AOR

In SLP 35735/2012 Mr. Krishna Pal Singh,Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals are dismissed in terms of the signed order.

(Renuka Sadana)
Assistant Registrar

(Parveen Kumar)
AR-cum-PS

[signed order is placed on the file]