
(2012) 01 DEL CK 0030

In the Delhi High Court

Case No : Writ Petition (C) No. 1306 of 2007

Ganga Vihar Rw Association and Others

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 19-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0030

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Mohd. Sajid, for the Appellant; R.V. Sinha, for R-1/UOI and Mr. V.K. Tandon, for R-2/ Govt. of NCT. of Delhi, for the Respondent

Final Decision : Dismissed

Judgement

Hima Kohli, J.—The present writ petition has been filed by the petitioners seeking directions to the respondents not to dispossess forty one petitioners, members of the petitioner No.1 Association, or disturb their possession in the colony known as Ganga Vihar.

2. It is the case of the petitioners that since the year 1986, they are the resident members residing in the colony named Ganga Vihar, Village Kilokari, Ring Road, New Delhi, and had purchased plots from the original owners on which structures had been constructed by them comprising of Khasras No.530/1, 532/1, 1260, 535/1, 491/1, 522/1-6, 520/1/1, 521/1, 517 and 519, Village Kilokari, Ring Road, New Delhi. It is averred in the writ petition that in the year 1987, the colony in question came into existence and the residents and the members of the petitioner/Association started residing there with their families. In the year 1990, the colony applied to respondent No.2/Govt. of NCT of Delhi for being regularized. An acknowledgement receipt dated 31.1.2005 was issued by respondent No.2/Govt. of NCT of Delhi acknowledging the receipt of an application for regularization of the unauthorized colony, which is placed on record as Annexure P-1. It is stated that the name of the colony of the petitioners/Association features at item No.300 in a list of 1432 colonies, which

have applied for seeking regularization (Annexure P-1).

3. The petitioners claim that during the pendency of the aforesaid application for regularization, on 14.12.2006, the staff of respondent No.2/Govt. NCT of Delhi and that of respondent No.3/DDA visited the said colony with police force for undertaking demolition action. Aggrieved by the aforesaid demolition action, the petitioners submitted a representation to the respondents on 22.2.2006 and on 22.1.2007 and thereafter filed the present writ petition on 19.2.2007 with the prayer, as mentioned herein above.

4. When the present writ petition was listed on 22.2.2007, counsel for respondent No.3/DDA had stated that there was a willful suppression of material facts in the writ petition and he had sought time to place on record the photographs and other relevant documents required to substantiate the said submission. As a result, he was directed to file an affidavit.

5. A short affidavit was filed by OSD (LM), DDA on 24.4.2007 and an additional affidavit was filed by the Director (Land Management), DDA on 23.7.2010 wherein, it was stated that the petitioners had not approached the Court with clean hands and had deliberately concealed material facts. It was averred that the land in question was acquired land and physical possession thereof was handed over by the LAC, Land & Building Department, Govt. of NCT of Delhi to respondent No.3/DDA on 27.12.1990 and on 9.2.2007. A copy of the possession report was placed on record along with the earlier affidavit dated 24.4.2007. It was further submitted that the land in question was lying vacant and there was no colony in existence on the subject land. It was thus stated that the present petition was an attempt on the part of the petitioners/Association to grab Government land, which is impermissible. In para 5 of the affidavit, it was submitted that even otherwise, the purported provisional regularization that the petitioners were relying upon is only a copy of an acknowledgement receipt issued by Govt. of NCT of Delhi, acknowledging an application for regularization submitted by the petitioner/Association on 31.1.2005.

6. On 27.10.2008, respondent No.3/DDA addressed a letter to the Principal Secretary (Urban Development), Govt. of NCT of Delhi, to provide it a copy of the layout plan and other documents submitted by the RWA of Ganga Vihar with its application for purposes of verification. Upon physical verification, it transpired that there is no colony existing on the land in question. A copy of the letter dated 23.10.2008 addressed by the Commissioner (L.M.), DDA to the Principal Secretary (UD), Govt. of NCT of Delhi is enclosed as Annexure-E to the aforesaid affidavit. The contents of the aforesaid letter are reproduced herein below:

Sir,

I would like to bring to your kind notice that unauthorized colony namely, Ganga Vihar, Kilokari near Kalindi Colony, Delhi-14, appearing at S.No.390 in the list of 1432 unauthorized colonies has been physically verified by the official of DDA. It has been reported that no such colony exists at the site. It appears that some

vested interests have included the name of this colony in order to grab the vacant DDA land in the area.

I would like to request you kindly make available the copies of layout plan and other documents submitted by this colony for immediate verification. In the meantime, I would also like to request you not to consider the regularization of this colony.

With regards.

7. The aforesaid letter was duly acknowledged by Principal Secretary (UD), Govt. of NCT of Delhi, vide reply dated 24.12.2008 and an assurance was given to DDA that the concerned file pertaining to the colony in question had been forwarded to Director, Unauthorized Cell, DDA for scrutiny and verification and the colony's request for regularization would be taken only in the light of verification reports received from the DDA and the concerned local bodies.

8. Counsels for the respondents No.1 and 2 submit that the layout plan attached by the petitioners/Association with their application for seeking regularization of the alleged unauthorized colony by the name of Ganga Vihar Residents Welfare Association is a fake plan inasmuch as no such colony was found in existence at the site. It is further stated that the Deputy Director (LM) SEZ, DDA had written an internal letter dated 25.9.2009 to the Director (UC) Planning, DDA informing the aforesaid officer that the revenue staff had visited the area in question and reported that there was no colony existing at the site, whereas the plan for regularization of the subject colony submitted by the RWA showed otherwise. It was further stated in the said letter that presently the subject land is protected by a stone boundary wall constructed around it by the DDA and sign boards had been displayed thereon. Lastly, it was stated that a detailed report with the recommendation that the colony did not qualify for regularization had been forwarded to the Govt. of NCT of Delhi. Along with its affidavit, the respondent No.3/DDA has placed on record the photographs of the area in question which shows existence of a stone wall bounding the area, however, there do not exist any built-up structures on the land in question.

9. It is pertinent to note that the petitioners/Association have not rejoined to the affidavits filed by respondent No.3/DDA till date. As a result, the averments made in the said affidavits are deemed to be true and correct.

10. Having regard to the averments made in the aforesaid affidavit, this Court is of the opinion that the present petition filed by the petitioners/Association is a gross abuse of the process of the Court and is a blatant attempt on the part of the petitioners/Association to grab Government land under the garb of seeking regularization of an unauthorized colony. The falsity of the present petition is borne out from the prayer clause itself, wherein the petitioners have averred that the colony in question known as Ganga Vihar Residents Welfare Association, is part of the list of the approved colonies. The aforesaid submission is patently false for the reason that the only document placed on record by the petitioners/

Association is a copy of the acknowledgment receipt dated 31.1.2005 issued by Govt. of NCT of Delhi, a perusal of which shows that the Resident Welfare Association of Ganga Vihar had only submitted an application for regularization of the unauthorized colony and Ganga Vihar is not a part of the list of approved colonies. Further, no provisional regularization certificate has been issued by respondent No.2/ Govt. of NCT of Delhi in favour of the petitioners, and therefore, the question of placing the same on record does not arise.

11. In these circumstances, the present petition is dismissed as being devoid of merits and on account of concealment of material facts by the petitioners, costs of Rs. 1,00,000/- is imposed on the petitioners. The costs shall be paid by all the petitioners proportionately and deposited with respondent No.3/DDA within four weeks. In case the petitioners fail to deposit the costs imposed, the same shall be treated as arrears of the land revenue to be recovered from them, in accordance with law.