

(2001) 01 DEL CK 0131

In the Delhi High Court

Case No : Civil Writ Petition No. 903 of 1991 and C.M. No. 6793 of 2000

Krishan Singh and Another

APPELLANT

Vs

Delhi Development Authority and Others

RESPONDENT

Date of Decision : 16-01-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Delhi Development Act, 1957 — Section 12

Citation : (2001) 01 DEL CK 0131

Hon'ble Judges : Dr. M.K. Sharma, J;A.D. Singh, J

Bench : Division Bench

Advocate : K.C. Mittal, for the Appellant; Geeta Mittal, A.M. Singhvi, Vivek Dhokalia and Raman Duggal, for the Respondent

Final Decision : Dismissed

Judgement

Anil Dev Singh, J.—This is a writ petition by two residents of Mohammedpur village. They have filed the writ petition by way of public interest litigation. The petitioners inter alias pray for issuance of a writ in the nature of mandamus to restrain the respondents from interfering with the rights of the petitioners as well as of public at large to the use of 45 feet wide road between Bhikaji Cama Place and Village Mohammedpur for a proper access to the village. The facts and the controversy involved in the case lie in a narrow compass.

2. The case of the petitions is that the villagers of Mohammedpur village had access to a 45 feet wide road shown in the development plan of village. In course of time, however, a part of the road and some land belonging to the first respondent Delhi Development Authority (for short "the DDA") was occupied by Jhuggi dwellers in the year 1989. The encroachments were not removed by the first respondent. Thereafter, a masonry wall was constructed by the first respondent to protect the land from encroachments. The petitioners had been representing to the first respondent that there should be a 45 feet wide public road as per the development plan of Mohammedpur village, but the first

respondent in violation of the vested rights of the villagers illegally allotted part of the road, which was encroached by the slum dwellers, along with some other land in the District Centre, Bhikaji Cama Place, to the second respondent-Housing and Urban Development Corporation.

3. According to the case of the second respondent plot No. 25 measuring 18,830 square meters located in the District Centre, Bhikaji Cama Place, New Delhi, was purchased by it from the first respondent on July 7, 1989. The layout plan of the District Centre was duly approved subsequent to the alleged approval of the layout plan of Village Mohammedpur. In the layout plan of the District Centre, no road has been provided for giving access to the villagers of Mohammedpur. As per the affidavit of Delhi Development Authority filed on November 22, 1999, the Delhi Urban Arts Commission approved the layout plan of the District Centre, Bhikaji Cama Place, on August 29, 1979 and the District Centre was developed strictly in accordance therewith. According to the affidavit, there is a road of about 45 feet wide adjacent to R.K.Puram side which forms part of the village and runs parallel to the District Centre side. That apart, there are other accesses to the village from this road. The affidavit also goes on to state that there are two major entrances to the village from the side of Africa Avenue as well.

4. The only question involved in the petition is whether the petitioner and the residents of Village Mohammedpur can have any claim over the alleged road of 45 feet wide. Learned Counsel appearing for the petitioners vehemently argued that the development plan of Village Mohammedpur, which was prepared by the D.D.A. and approved by the Standing Committee of the M.C.C. Vide Resolution No. 390 dated September 6, 1973, shows a 45 feet wide road running around the village on three sides. This may be so, but the fact of the matter is that the layout plan of the District Centre, which is of a subsequent date, does not contain any provision for a road. It needs to be noted that this layout plan was duly approved by the Competent Authority. From the affidavit of the D.D.A. filed on November 22, 1999 it is clear that Village Mohammedpur is connected by a 45 feet wide road adjacent to R.K.Puram side. This road runs parallel to the District Centre side. Besides, there are other accesses to the village. This position has not been controverted by the petitioners. It is not in dispute that the HUDCO after the purchase of the land has constructed a building thereon which even after construction cannot be used because of the interim order passed by this Court. It also cannot be denied that the building raised by the HUDCO on the land in question is in conformity with the sanctioned plan. The area in question is a development area and is governed by Section 12 of the Delhi Development Act, 1957. The development has taken place in accordance with duly approved development plan of the District Centre. The development, Therefore, being in accordance with the plan cannot be held to be without authority of law. The layout plan of the District Centre approved by the Delhi Urban Art Commission in August, 1979 superseded the village development plan of 1973 to the extent of any conflict between the two. It appears to us that there are enough roads which provide access to the village.

5. For the foregoing reasons, we do not find any merit in the writ petition. Accordingly, the same is dismissed.

6. Writ Petition dismissed.