

(2019) 09 DEL CK 0386

In the Delhi High Court

Case No : Civil Suits (OS) No. 116 Of 2009

Suraj Bhan & Ors

APPELLANT

Vs

Swarup Singh (Deceased) Through Lrs & Ors

RESPONDENT

Date of Decision : 26-09-2019

Acts Referred:

Citation : (2019) 9 AD(Delhi) 660 : (2020) 1 RLR 45

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : S.K. Rout, Aman Mehrotra, Sanjay Kumar Pathak, K.K. Kiran Pathak, Sunil Kumar Jha, M.S. Akhtar, R. Krishnaamorthi, Digvijay Rai, Aman Yadav

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J

1. The six plaintiffs viz. (I) Suraj Bhan, (II) Ramesh, (III) Umed (since deceased and substituted by his legal representatives), (IV) Jagdish, (V) Tejpal, and, (VI) Munesh, have instituted this suit for (i) declaration that the plaintiffs as owner of acquired land admeasuring 220 sq. yds. in Khasra No.1199 situated in extended Laldora Abadi of village Nangal Dewat, Delhi are entitled to rehabilitation plot at village Rangpuri in lieu of the said acquired land admeasuring 220 sq. yds. in Khasra No.1199 situated in extended Laldora Abadi of village Nangal Dewat; (ii) mandatory injunction directing the defendants no.6 to 10 viz. (a) Additional District Magistrate/Nodal Officer, (b) Delhi Development Authority, (c) Airport Authority of India (AAI), (d) Union of India, and, (e) Lieutenant Governor, Delhi to allot rehabilitation plot to the plaintiffs in lieu of acquired land admeasuring 220 sq. yds. in Khasra No.1199 situated in extended Laldora Abadi of village Nangal Dewat; and, (iii) permanent injunction restraining the said defendants no.6 to 10 from allotting the rehabilitation plot in lieu of aforesaid land to the defendants no.1 to 5 viz. (A) Swarup Singh (since deceased through legal representatives), (B) Raj Singh, (C) Nafe Singh, (D) Daya Nand, and, (E) Ram Chander.

2. This suit has identical chequered history, as narrated in Sohan Lal Vs. Union of India 2019 SCC OnLine Del 9878 and thus the need to repeat the said narration herein is not felt.

3. The suit, ripe for framing of issues, came up before this Court on 16th July, 2019 when it was enquired, whether not the matter with respect to similar other suits filed by others had already been adjudicated; the proceedings were adjourned to enable the counsels to show the decisions/ judgments if any in other suits.

4. Today, the counsel for the defendant no.6 Additional District Magistrate/Nodal Officer and counsel for defendant no.8 AAI state that the controversy in the present suit is fully covered by the judgment in Sohan Lal supra and there is thus no need to frame issues in the suit and relegate the parties to trial.

5. The counsel for defendant no.8 AAI has drawn attention to the order dated 16th November, 2006 of the Nodal Officer with respect to the claim of the plaintiff in the present suit and particularly to the following paragraphs thereof:

"At the time of hearing, Sh. Suraj Bhan s/o Late Kesho Ram appeared and he informed that his family is residing in the extended abadi in Khasra No.1199 in a piece of land measuring 220 sq. yard. He further informed that the compensation for structure is assessed in the name of Sh. Surat Ram s/o Rura Ram and Sh. Suraj Bhan s/o Late Kesho Ram. However, the revenue record of this land contains the name of Late Chhajju Ram and Late Sukh Lal sons of Sh. Seo Chand. The land is situated in the extended abadi. The applicants claim that they are in possession of the land and on the basis of their possession they are entitled for the plot in their name. They, however, failed to produce any document regarding purchase of this land nor any other document was produced which can indicate how this land was acquired by the applicant.

As regards the claim of structures I would say that even though compensation of the structures was considered independently in the Award but the same is not connected with the land beneath the structures. The market value of land and the market value of structures have been assessed separately. The claim for structures does not entitle a person to claim the land beneath the structure. The compensation for the said structures has been assessed irrespective of the fact whether the land is under ownership of claimant or not. In some of the cases, claims have been filed for the structures raised on the Gaon Sabha / Govt. Land. Therefore, the valuation of structure in the Award is absolutely not connected with the determination of eligibility for allotment of alternative plots. The land in Lal Dora and the extended abadi acquired under the LA Act is the only basis for such consideration. Therefore the applicants who have claimed plots on the basis of the claim of structures have no right to ask for a plot in their name."

and has contended that this Court in Sohan Lal supra has already held that alternate plot in lieu of land in extended abadi of village Nangal Dewat was to be allotted on the basis of title and not on the basis of possession. Attention is

invited to paragraphs 4 and 5 of the plaint dated 2nd January, 2007 in the present suit which are as under:

"4. That about fifty years back that late Sh. Rura Ram the predecessor-in-interest of the plaintiffs and Sh. Chhaju the predecessor-in-interest of the defendants no.1 to 5 have mutually exchanged the land measuring 153 sq. yards comprising in Kh.no.1198 which has been shown in green color in the site plan with the land comprising in Kh.no.1199 to the extent of 220 sq. yards belonging to Late Sh. Chhaju predecessor-in-interest of the defendants no.1 to 5 which has been shown in red color in the site plan.

5. That after the exchange of the land in question by Late Sh. Rura Ram, the Late Sh. Rura Ram the predecessor-in-interest of the plaintiffs had constructed pucca house on an area measuring 220 sq. yards comprising in Kh.no.1199 as owner thereof, as Late Sh. Rura Ram has acquired the full legal ownership rights in regard to the land in question as shown red in the site plan after the said exchange of the land. Thus Late Sh. Rura Ram the predecessor-in-interest of the plaintiffs had become the owner of the land measuring 220 sq. yards alongwith the pucca structure thereon and the defendants no.1 to 5 or Late Sh. Chhaju the predecessor-in-interest of defendants no.1 to 5 was not left with any right, title or interest of any kind in the land measuring 220 sq. yards comprising in Kh.no.1199 which was exchanged by Late Sh. Rura Ram with Late Sh. Chhaju which has been shown red in the site plan."

to contend that the plaintiffs in the plaint have admitted that they had no title in law to the land ad-measuring 220 sq. yds in Khasra No.1199 situated in extended Laldora Abadi of village Nangal Dewat but were in possession thereof in lieu of an unregistered exchange with defendants no.1 to 5. It is argued that following the dicta in Sohan Lal supra, once the plaintiffs admit having no title to the land in lieu whereof alternate plot is sought, even if in possession thereof, are not entitled to the relief claimed.

6. Per contra, the counsel for the plaintiffs has contended that he has gone through the dicta in Sohan Lal supra but the facts of the present case are distinguishable. It is contended that while in Sohan Lal supra the title owners of the land with whom the plaintiffs therein had exchanged, before the Nodal Officer, were disputing the title of the plaintiffs therein, the defendants no.1 to 5 in the present case have neither disputed the exchange nor disputed the possession of the plaintiffs of the land in lieu of which alternate plot is sought.

7. The counsel for the plaintiffs however agrees that even in Sohan Lal supra, title owners of the land, before this Court, were not disputing the possession of the plaintiffs therein, of the land in lieu whereof alternate plot was being sought.

8. Once it has been held in Sohan Lal supra that for being entitled to alternate plot in lieu of acquired land in extended abadi of village Nangal Dewat, title to the land and not possession was the prerequisite, the plaintiffs, admittedly having no title to the acquired land in lieu whereof alternate plot is being sought,

cannot on account of the aforesaid difference be treated differently.

9. It may be noticed that once the title owners of the acquired land before this Court in Sohan Lal supra had also admitted possession, the plaintiffs in Sohan Lal were in identical position to the plaintiffs in the present suit.

10. The counsel for the plaintiffs has not shown anything to claim that the plaintiffs, merely on the basis of possession of acquired land admeasuring 220 sq. yds. in Khasra No.1199 situated in extended Laldora Abadi of village Nangal Dewat, even without any title documents or title entry with respect thereto, are entitled to alternate plot.

11. The only other argument of the counsel for the plaintiffs is that the plaintiffs claimed compensation with respect to acquired land in lieu whereof alternate plot is sought and though have been awarded compensation, have not accepted the same.

12. The Nodal Officer, in his order reproduced above, has explained that the compensation awarded is for the structure and not for the land and the said fact is not disputed by the counsel for the plaintiffs also.

13. Once it is so, merely because the governmental authorities have awarded compensation for the structure constructed by the plaintiffs on acquired land, to the plaintiffs, would not stop the authorities from denying alternate plot to the plaintiffs in lieu of acquired land.

14. No purpose will be served in framing issues and keeping this suit pending when the position of law on the facts pleaded by plaintiffs themselves is no longer res integra and disentitles the plaintiffs from relief claimed.

15. The suit is dismissed; however no costs. Decree sheet be drawn up.