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

% **Judgment reserved on : 06 February 2025**
Judgment pronounced on : 28 February 2025

+ W.P.(C) 2687/2020 & CM APPL. 9344/2020

HARIT NURSERIES WELFARE ASSOCIATION (REGD.) &
ANR.

.....Petitioner

Through: Mr. Rajiv Kumar, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.

.....Respondents

Through: Ms. Prabhsahay Kaur SC with
Ms. Kritika Gupta and Mr. Bir
Inder Singh Gurm, Adv. with
Mr. Pankaj Gunawat, Dy.
Director.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The petitioners invoke the extra-ordinary jurisdiction of this Court by instituting the present writ petition under Article 226 of the Constitution of India, 1950, by seeking the following reliefs against the respondents herein:

“A. Direct the Respondent No.1 to allow the horticulturists to continue their profession at the same place uninterrupted.

B. Direct the respondents to present a Rehabilitation Plan before this hon'ble Court, if they are determined to uproot the petitioners.

C. Direct the respondents to consider allotting the same land to the nursery owners/ horticulturists even on lease on reasonable rates.



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D. Direct the respondents to pay adequate compensation for the losses caused by the actions of the respondents done through bulldozers and JCB machines etc. on the nurseries and Bagwanis.

E. Direct the Respondents to place a well prepared and detailed plan for creation, maintenance, upkeep, opening etc. of nurseries on a land where sufficient irrigation water is available in the Master Plan and till its final approval no coercive action against any nursery be taken.

F. Direct the Respondents to get the abovementioned plans in B and E above approved from this Hon'ble Court.

Pass any order or further order(s) which this Hon'ble court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

BRIEF FACTS

2. Shorn of unnecessary details, the petitioner No.1 is a registered society, claiming to be working for the welfare of several Plant Nurseries engaged in horticulture for the past several years in the area of Yamuna Khadar, Delhi, situated somewhere between *Lohe ka Pul* in the North and the DND Flyover in the south of Delhi (*hereinafter referred to as "subject land"*), admittedly falling in Zone 'O' of the Master Plan for Delhi-2021 i.e., the Yamuna Floodplains.

3. It is vociferously claimed that the petitioners are soldiers of the environment, and it is due to their efforts invested in the Yamuna Khadar area that the residents of Delhi have oxygen to breathe and are able to combat Global Warming. Additionally, it is claimed that there are more than 5,000 people who are directly dependent on the said Nurseries for their livelihood and cannot afford to leave horticulture.

4. The grievance of the petitioners is that in the month of November 2019, the respondent No.1 i.e. Delhi Development Authority [**DDA**] uprooted the petitioners' Nurseries and destroyed all the plantation with



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bulldozers without following due process of law. It is claimed that the said demolition drive was conducted by the respondent/DDA without first giving an opportunity to be heard to the petitioners, and without conducting a physical demarcation of the subject land as per the directions of the National Green Tribunal dated 11.09.2019 in O.A. No. 6/2012 titled “*Manoj Mishra v. Union of India*”.

5. Furthermore, it is claimed that the petitioners cannot be treated as encroachers and be dispossessed from the subject land, in view of the directions of the Supreme Court, passed in Miscellaneous Application No(s) 2567-2569/2019 in SLP (C) Nos.33490-33492/2016 titled “*Baljeet Singh and Anr. v. Delhi Development Authority*”, whereby horticulture activities were permitted to be carried out on the Yamuna Floodplains till 31.03.2020. Reliance has also been placed on the order dated 06.06.2016 passed by the National Green Tribunal in O.A. No. 6/2012 to substantiate their claim that practising horticulture on the land of Yamuna Khadar, Delhi was never intended to be prohibited by the National Green Tribunal.

6. It is further stated that the Master Plan for Delhi-2021 has a limited vision for securing a ‘green belt’ in Delhi and there is no provision for establishing and expanding nurseries in Delhi in the coming future. Thus, in view of the fact that the Yamuna Khadar belt has the best land and capacity to grow plants in nurseries, it is prayed that the petitioners be allowed to peacefully continue their occupation over the subject land without any interference or disturbance from the respondent authorities.



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7. In the alternative, the petitioners pray that in consonance with the recommendations of the Expert Committee constituted by the Ministry of Environment and Forests, New Delhi, the respondents be directed to conduct a survey and frame a Rehabilitation Plan for the Nurseries to be transferred elsewhere in the territory of NCT of Delhi so that the petitioners may continue to earn their livelihood. Hence, the present petition.

ARGUMENTS ADVANCED AT THE BAR

8. It was vehemently urged by the learned counsel for the petitioners urged that till date, no demarcation exercise has been carried out by the respondents/DDA with respect to the subject land; and that in the last five years, half the nurseries situated on the subject land have been illegally demolished at the behest of the respondent/DDA. It was further contended that the petitioners, being the lifeline of Delhi, are entitled to be rehabilitated by the respondent authorities, considering their vital role in securing the ecological balance of Delhi.

9. Controverting the aforesaid contentions, Ms. Prabhsahay Kaur, learned standing counsel for the DDA submitted that the area falling between *Lohe ka Pul* and the DND Flyover stretches over several kilometres and the petitioners have deliberately not identified their exact locations so as to mislead and hoodwink the Court. Ms. Kaur placed on record a Google Earth image of the vast expanse of land stretching from *Lohe ka Pul* till the DND Flyover, signified by two yellow pins placed on each end. A scanned copy of the said image is reproduced hereinunder:



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Image 1

Learned standing counsel submitted that the area in question is government land located on the demarcated Yamuna floodplains where eco-restoration plantation is to be undertaken by the DDA as a part of a public project called “Mayur Nature Park” which is a bio-diversity park being developed for the purpose of maintaining and securing the green cover of Delhi.

10. It was further urged that the petitioners are encroachers who have been running nurseries on the subject land without any authorisation so much so that multiple demolition drives have been conducted by the DDA to remove said encroachments. Besides a copy of the Demolition Report dated 18.07.2024 to 22.07.2024, learned standing counsel placed on record a list containing details of demolition in ‘O’ Zone for the last 3 years i.e., from 01.01.2022 to 30.11.2024, prepared by the Office of the Deputy Director (Hort.), Horticulture Division-IX, DDA,



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Vivek Vihar, Delhi-95, to show that in the aforesaid timeframe, the DDA has been consistently demolishing structures in the nature of “cultivation/ **nursery**/ jhuggi/ religious structure” falling in Zone ‘O’ of Delhi.

11. Lastly, learned standing counsel for the DDA relied upon the decisions passed by this Court in the cases of **Udaiveer v. Union of India**¹, **Ram Singh Saini v. Delhi Development Authority**², **Chander Bhan v. Delhi Development Authority**³ and **Laxman Singh Prajapati v. Municipal Corporation of Delhi**⁴ upholding the removal of encroachments by cultivators in occupation of land falling in Zone ‘O’ i.e., Yamuna Floodplains.

ANALYSIS AND DECISION

12. At the outset, although the petitioners claim that the nurseries owners and their predecessors-in-interest have been in settled and lawful possession of the subject land, they have not sought to rely upon any documents establishing their legal right, title, or interest over the subject land. There is neither any description of their exact location nor there is filed any site plan. There is nothing on the record to hold them as *bhumidars* or *asamis* with respect to the large tract of land either. Thus, they have woefully failed to demonstrate any reasonable and justifiable grounds to be afforded protection from dispossession over the subject land.

¹ 2025 SCC OnLine Del 571

² 2025 SCC OnLine Del 577

³ 2024 SCC OnLine Del 4859

⁴ 2024 SCC OnLine Del 6799



13. Apart from a flimsy attempt to tug at the conscience of this Court by proclaiming themselves to be the guardians of the environment, the petitioners have brought nothing tangible or legitimate on the record to convince this Court that they are entitled to continue occupation on the subject land or for that matter, entitled to be rehabilitated by the respondents.

14. The plea raised by the petitioner that horticulture activities in the Yamuna Floodplains area are permissible under the orders of the National Green Tribunal, cannot be sustained either, because the fact remains that the subject land is a part of “Zone-O” of the MPD-2021, which is 1 in 25 floodplains, on which all encroachments have to be promptly removed by the respondent/DDA for the purpose of developing the “Mayur Nature Park” in terms of the directions dated 13.01.2015 and 11.09.2019 of the National Green Tribunal passed in O.A. No. 06/12 titled “*Manoj Mishra v. Union of India*”.

15. Moreover, *vide* order dated 07.12.2017 passed in O.A. No. 76/2016 and O.A. No. 81/2016, the National Green Tribunal has reiterated that the floodplains of Yamuna should not be permitted for construction, occupation, habitation etc. and it is the duty of the DDA to maintain the natural features and ecology of the Yamuna floodplains.

16. Reliance in this regard may also be invited to a recent judgment delivered by a Division Bench of this Court in the case of **Court on its own motion v. Union of India**⁵, wherein the following directions were passed for restoration and rejuvenation of the Yamuna Floodplains :

⁵ 2024 SCC OnLine Del 2675



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“20. DDA in coordination with all concerned agencies is hereby directed to ensure removal of encroachments from Yamuna River Flood Plains. Delhi Police shall provide necessary force to the DDA as and when requested, to maintain law and order during such encroachment removal drives to remove encroachment from Yamuna Flood Plains.

21. Further, DDA shall submit an action taken report on development of ten bio-diversity parks / wetland areas in Yamuna River Flood Plain including an action plan with timelines for completion of pending projects. Cities and Towns around India, which have been developed along rivers, are doing horticulture and green development of river fronts for their citizens as symbols of urban pride.

22. DDA shall explore green horticultural development of river fronts and recreational zones with public amenities to increase public participation and awareness about rejuvenation of River Yamuna in accordance with extant guidelines.

23. It is necessary to do green development of the banks of the Yamuna as wetlands and public spaces, parks for open green spaces, access to civic amenities, zones of entertainment or playgrounds for the children. This will lead to buy-in by the common citizen, a sense of ownership and consequent pressures on the authorities to ensure maintenance. All this will go hand in hand with ecological restoration, maintenance, and protection of the flood plains.

24. A large number of religious devotees pray at different locations, discharging solid waste in the river water, adding to an already serious problem. Recognising this need of the residents of the State, DDA should construct select number of ghats or platforms on stilts along the riverbank, for such purposes to ensure that the devotees get space and the authorities are able to deal with the challenge of waste scientifically.”

17. At this juncture, it must be also be held that the reliance by the petitioners on the order of the Supreme Court dated 16.12.2019 passed in SLP (C) Nos.33490-33492/2016 titled “*Baljeet Singh and Anr. v. Delhi Development Authority*” is misplaced since the said petition arises out of clearly distinguishable facts, pertaining to the farmers of certain revenue estates in Delhi that were allotted to two societies by the



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predecessor-in-interest of respondent/DDA, and which were collecting *lagaan*/revenue from the said farmers.

18. In the instant matter however, as per the own case set up by the petitioners, they stand on a different pedestal than the farmers or cultivators and it is also not their case that they are in possession of the subject land on a lease-basis directly from the respondents or through any society. Thus, the limited concessions granted by the Supreme Court to the farmers of Village Chak Chilla and surrounding areas at that point in time do not come to the rescue of the petitioners today in any manner.

19. Before finally drawing the curtains down on this petition, upon perusal of the copy of the Demolition Report dated 18.07.2024 to 22.07.2024 placed on record by Ms. Kaur, evidently, after the initial demolition action which was taken in the year 2019 for removal of the unauthorized encroachment and construction over the subject land, the petitioners have attempted to re-claim the said premises by not leaving the site and continue to carry on their unauthorised horticulture activities, for which reason the respondent/DDA had to conduct another demolition drive that went on for five days from 18.07.2024 till 22.07.2024 so as to remove the re-encroachments including 20 illegal nurseries, and reclaim the subject land.

20. At the cost of repetition, the land in question falls under the Zonal Development Plan for Zone- 'O' as approved by the Ministry of Urban



Development⁶, and as per the Master Plan for Delhi-2021, it is required to be rid of encroachments, in the larger public interest, in terms of directions passed by the Supreme Court and the National Green Tribunal besides this Court in numerous cases, some of which have been referred to hereinabove. The present condition of the Yamuna River has surpassed the threshold where any further interference in its rejuvenation and restoration efforts—whether under the guise of humanitarian or sympathetic considerations—cannot be justified. Any such intervention would only serve to hinder and delay the timely execution of the Public Projects referred hereinbefore.

21. In view of the foregoing discussion, this Court has no hesitation in holding that the petitioners are encroachers with no legal right to continue to use and occupy the subject land for any purpose whatsoever, or to seek rehabilitation by way of alternative allotment. Resultantly, the present writ petition stands dismissed for being devoid of any merits.

22. The pending applications, if any, also stand disposed of accordingly.

DHARMESH SHARMA, J.

FEBRUARY 28, 2025

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⁶ The Zonal Development Plan for Zone 'O' has been approved by Ministry of Urban Development, vide letter No. K-12011/23/2009- DDIB dated the 8th March, 2010 under Section 9(2) of DD Act, 1957 and notified under section 11 by DDA on 10.08.2010