



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

% **Judgment reserved on : 28 February 2025**
Judgment pronounced on : 18 March 2025

+ W.P. (C) NO. 7542/2017 & CM APPL. 2063/2020, CM. APPL
8897/2022

SACCHI SHURUAAT SEWA SAMITI (NGO) Petitioner
Through: Mr. Sanjay Kumar, Adv.

versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through: Ms. Prabhsahay Kaur, Standing
Counsel with Ms. Deekhsa L
Kakar, Mr. Bir Inder Singh and
Mr. Rashneet Singh, Advs. with
Ms. Kamleshwari Pandi, Naib
Tehisaldar (DDA)

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. The petitioner herein invokes 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 respondent/Delhi Development Authority [**DDA**]: -

a) An appropriate writ may kindly be issued in favour of the petitioner and against the respondent thereby directing the respondent to accept the lease money from the allottees of the land in respect of agricultural land situated in Khasra No.16,24 North Chiraga Somali, Khattewala Rakba, Marginal Band, now known as Shastri Park, Delhi.

b) An appropriate writ may kindly be issued in favour of the petitioner and against the respondent thereby directing the respondent to allow the said allottees of the land to raise a boundary wall for the protection and security of their land and standing crops



from roaming cattle, wild animals, and the security of standing from the social miscreants.

c) Pass such other, further order(s) in the facts and circumstances of the case as this Hon'ble court may deem fit and equitable in favour of the petitioner.

BRIEF FACTS

2. The petitioner is a registered society, claiming to have filed the present petition on behalf of 32 farmers/allottees, who were allegedly allotted agricultural land measuring 10 bighas each in Khasra No. 16, 24 North Chiraga Somali, Khattewala Rakba, Marginal Band (now known as Shastri Park), Delhi (*hereinafter referred to as the "said agricultural land"*), by the respondent/DDA *vide* allotment letter dated 01.10.1962, in lieu of the acquisition of the land situated in Indraprastha Estate, by the respondent/DDA for the purpose of construction of the Indraprastha Power Plant.

3. It is claimed that thereafter, the 32 allottees were regularly depositing the "lease money" for the said agricultural land, until ejection proceedings under the Public Premises (Eviction of the Unauthorised Occupant) Act, 1971 [**'PP Act'**] were initiated against them by way of the issuance of a show cause notice dated 30.01.1991 under Section 4 of the PP Act, and thereafter, an eviction order dated 20.08.1991 was passed against the allottees by the concerned Estate Officer.

4. Resultantly, as many as 26 appeals were filed by some of the said allottees under Section 9 of the PP Act before the Learned Appellate Authority, thereby challenging the eviction order dated 20.08.1991 passed by the Estate Officer, which appeals were allowed by the



Appellate Authority *vide* a common judgment dated 18.11.1995, on the basis of the statements made by three witnesses produced by the DDA in the appeal proceedings besides the allotment letter dated 01.10.1962. Accordingly, the learned Appellate Authority *inter alia* restored the possession of the allottees and quashed the impugned eviction order dated 20.08.1991 on the ground that the procedure of ejection followed by the Estate Officer was “defective” in as much as the show cause notice dated 30.01.1991 under Section 4 of the PP Act, that was served upon the allottees by the DDA, was “not valid” and their leases were not cancelled by the DDA before initiating the eviction proceedings against them.

5. In the said backdrop, the grievance of the allottees is that the respondent/DDA has now refused to accept the lease money from the allottees, thereby creating a false ground for evicting the poor farmers from the said agricultural land. Additionally, the allottees are aggrieved inasmuch as the respondent/DDA is not allowing them to construct a boundary wall on the said agricultural land to secure and protect it from roaming cattle, wild animals, and social miscreants. Hence, the present petition.

STAND OF THE RESPONDENT/DDA:

6. Pursuant to the orders of this Court, Mr. RK Sharma, Deputy Director (Land), DDA filed a counter affidavit dated 07.03.2020, *inter alia* deposing that the petitioner-society has not provided any relevant details of the 32 allottees who allegedly approached the petitioner to contest their cause, and that the order of the learned Appellate Authority



which is being relied upon by the petitioner is *qua* 26 persons/appellants, however, upon scrutiny, only 8 of these persons/appellants are found to be common with the list of 32 persons that the petitioner-society alleges to be representing.

7. On merits, it is stated on behalf of the respondent/DDA that the subject agricultural land is ‘government land’ and the petitioners are rank encroachers who upon being evicted from Indraprastha Estate, were then allotted the said agricultural land by the DDA on humanitarian grounds for cultivation on a “temporary lease” of only one year that expired in 1964, but they have been in illegal possession and occupation of the said agricultural land ever since. It has further been stated that the said agricultural land is located on the demarcated Yamuna floodplains i.e., Zone ‘O’ of Delhi, where all encroachments have to be removed and eco-restoration plantation has to be carried out by the DDA in terms of the various orders passed by the Supreme Court, the National Green Tribunal as well as this Court.

LEGAL SUBMISSIONS

8. At the stage of final hearing, Ms. Prabhsahay Kaur, learned standing counsel for the DDA, brought to the fore that the issues raised in the present petition already stand determined by this Court *vide* its decisions in **Mangal & Ors. v. Union of India & Ors.**¹ and **Chander Bhan v. Delhi Development Authority**², which petitions arise out of exactly same facts as those contended herein. Ms. Kaur further placed on record a chart to show that some of the persons— namely Kude,

¹ WP(C) 7135/2019 decided on 16.07.2024

² WP(C) 4587/2024 decided on 16.07.2024



Badri, Jagpat Ram and Prabhati— on whose behalf the present petition has allegedly come to be filed, are the predecessors-in-interest of some of the petitioners in *Mangal (supra)*, thereby suggesting that the present petition is an abuse of the process of law as the same parties are attempting to re-agitate settled issues under the guise of successive petitions. The chart revealing the relation of the alleged allottees in the present petition with the petitioners in *Mangal (supra)* is reproduced hereinunder:

S.No.	Petitioners in Mangal [A]	Details of Allottees in Sachi Shuruaat [B] (Annexure P-1 in W.P.(C) 7542/2017)	Relation of [A] with [B]
1.	Mangal S/o Kude	Kude (S.No.28)	Son of [B]
2.	Kallu Ram S/o Kude		Son of [B]
3.	Tota Ram S/o Badri	Badri (S.No.25)	Son of [B]
4.	Ram Babu S/o Badri		Son of [B]
5.	Ram Charan S/o Jagpat Ram	Jagpat Ram (S.no.26)	Son of [B]
6.	Rajesh S/o Jagpat Ram		Son of [B]
7.	Chanderbhan S/o Jagpat Ram		Son of [B]
8.	Om Prakash S/o Jagpat Ram		Son of [B]
9.	Mohan Lal S/o Jagpat Ram		Son of [B]
10.	Mahesh Kumar S/o Sukhan S/o Kude	Kude (S.No.28)	Grandson of [B]
11.	Satish S/o Prabhati	Prabhati (S.No.27)	Son of [B]

9. Learned standing counsel for the DDA, while placing on record the site map and current photographs of the agricultural land in question, showed to this Court that the encroachments on the subject agricultural land by the persons whom the petitioner is allegedly representing, are obstructing the progress of the “Yamuna Vanasthali” Project being undertaken by the DDA in furtherance of the efforts to secure the Yamuna Floodplains and restore the ecological balance of



the Yamuna River. It has further been urged that the actions of the petitioner herein are causing heavy losses to the public exchequer due to unwarranted delay in the completion of a State-funded Project for maintaining and securing the green cover of Delhi.

ANALYSIS AND DECISION

10. Having heard the learned counsels for the parties and on perusal of the record, at the outset, it is evident that the present petition pertains to the same parcel of agricultural land and arises out of the same ejection proceedings, as well as the subsequent appeal proceedings, which have already been comprehensively dealt with and adjudicated upon by this Court vide its decisions in *Mangal (supra)* and *Chander Bhan (supra)*. Accordingly, the findings reached at by this Court in the abovesaid cases become squarely applicable to the present case.

11. At this juncture, it would be apposite to reproduce the relevant extract of the judgment dated 16.07.2024 passed by this Court in *Mangal (supra)*, *inter alia* observing that there is no lease deed or rent receipt placed on the record by the petitioners therein (who are the successors-in-interest of the petitioners herein) to support their claims of having legal and valid possession over the said agricultural land; thus holding that the judgment dated 18.11.1995 passed by the learned Appellate Authority was passed on the incorrect premise that the farmers in question had any right, title or interest in the said agricultural land. The same goes as under:

“24. Although the aforesaid order dated 18.11.1995 was not challenged by the DDA, the findings recorded in the said judgment arise out of *summary proceedings* under the PP Act and it has no



binding effect when it comes to ascertaining the title of the parties to the subject agricultural land as also the status of the petitioners claiming possessory rights for cultivation on the same. Unhesitatingly, the judgment dated 18.11.1995 was passed on the incorrect premise that the appellants had any right or interest in the property in question. As discussed hereinbefore, no lease was ever executed in favour of the predecessors of the petitioners or for that matter, the petitioners, and they were allowed to cultivate the land on an year to year basis, for which evidently no rent was even paid by them.

25. At the cost of repetition, the petitioners have produced no documents in support of their claims, which only fortifies the stand of the DDA that their forefathers/predecessors were rank trespassers in respect of the property at Indraprastha Estate, from which land they were uprooted for setting up of the Indraprastha Power Station way back in the year 1962. Therefore, being rank trespassers and in occupation of some land situated at Indraprasth Estate without any right, title or interest, the same never entitled them to any compensation and the government only allowed them to cultivate the land in question on humanitarian grounds.

26. Be that as it may, the impugned judgment dated 18.11.1995 also reflects that it was the consistent stand of the DDA that the possession of the land had already been taken over by it. Such a position assumes significance when we find that the subject agricultural land falls under 'Zone O' of the Yamuna river bed, and the said area has been the subject of detailed discussions and directions for monitoring and development of Yamuna river bed and plains. Cognizance of the Yamuna pollution was first taken *Suo moto* by the Supreme Court in the year 1994 in WP (C) No. 725/1994 titled "**In Re : News Item Published In Hindustan Times Titled "And Quiet Flows The Maily Yamuna⁶**". *Vide* order dated 4.8.2004, the Supreme Court constituted a committee headed by the Secretary, Urban Development, Government of India, to oversee the measures to be necessarily taken for the rejuvenation of Yamuna River. Thereafter, *vide* order dated 10.10.2012, it was



noted that despite continuous monitoring by the Supreme Court for 18 years, there remained a high level of faecal coliform (FC) and BOD. Accordingly, the Supreme Court directed that ‘C’ category quality of water be achieved by preventing industrial/domestic pollution **and all encroachments at least up to 300 meters on both sides of the river be removed.** It transpires from the record that the aforesaid matter remained pending before the Supreme Court from 1994 till 2017, when it was finally transferred to the National Green Tribunal *vide* order dated 24.04.2017 by the Supreme Court in light of its decision in *MC Mehta v. Union of India*.

27. However, in the interregnum, the issue of Yamuna Pollution had already come up for consideration before the NGT in OA No. 06/2012 and OA No. 300/2013 titled “*Manoj Mishra v. Union of India*”. By Order dated 13.01.2015, the NGT passed directions, *inter alia*, to the DDA to demarcate the Yamuna Floodplain area and **further directed the DDA to take steps to repossess those areas being part of the floodplains that were under unauthorised and illegal occupation of any person or body.** In addition, the NGT passed orders prohibiting the cultivation of any edible crops or fodder on the floodplains till the Yamuna was declared pollution-free. Furthermore, the NGT constituted a ‘Principal Committee’ and at a later stage, a ‘Yamuna Monitoring Committee’, to oversee the progress made by the governmental departments in compliance of such directions.

28. Subsequent thereto, *vide* order dated 02.09.2014 in WP No. 888/1996 titled “*Almitra H. Patel v. Union of India*”, the Supreme Court remitted the issue of solid waste management to the NGT. Accordingly, the Chief Secretaries of all States/UTs were required to appear in person before the NGT and were directed to ensure that no untreated effluent/waste is discharged/dumped in water bodies/rivers. Based on the “polluter pays” principle, the Tribunal also levied compensation @ Rs. 2 crores per MLD on States/UTs for gap in generation and treatment of sewage.

29. Thereafter, *vide* judgment dated 22.02.2017, the Supreme Court in WP(C) No. 375/2012 titled “*Paryavaran Suraksha*”



*Samiti v. Union of India*⁸” observed that the States are under a constitutional obligation to prevent water/river pollution, by virtue of Article 243 W, 243X and 243Y, read with entry 6 of the 12th Schedule to the Constitution of India. Further, the Supreme Court directed setting up of pollution-control devices called “common effluent treatment plants”, within three years from the date of judgment i.e., 22.02.2017, in cities, towns and villages that discharge industrial pollutants and sewer directly into rivers and water bodies, failing which the concerned Secretaries to the Government would be prosecuted. Additionally, the NGT was directed to take steps to implement the judgment.

30. The NGT in OA No. 622/2012 titled “*Jagdev v. Lieutenant Governor of Delhi*”⁹”, vide order dated 17.10.2019, observed that the floodplains of Yamuna River cannot be allowed to be occupied by *jhuggi* dwellers as such occupation may damage the ecology of the River and accordingly, directed that the floodplains be kept free of encroachments in order to protect the ecology of the Yamuna.

31. The Supreme Court in Civil Appeal No. 3465/2022 titled “*Nizamuddin West Association v. Union of India*”¹⁰”, vide order dated 21.10.2022, directed the NGT to monitor the compliance of the orders passed by the NGT in *Manoj Mishra v. Union of India* and subsequent orders issued by the NGT pertaining to the cleaning of the Yamuna River.

32. The subject matter i.e., Yamuna Rejuvenation Plan came to be taken up by the NGT in OA No. 21/2023 titled “*Ashwani Yadav v. Government of NCT of Delhi*”¹¹”, and upon highlighting the lack of progress in controlling the pollution of the river Yamuna, the NGT vide Order dated 09.01.2023, constituted a High Level Committee (“**HLC**”) of the concerned authorities in Delhi, to be headed by the Lt. Governor, to take stock of the pollution in Yamuna with regard to the directions passed by the NGT, the extent of compliance as well as non-compliance, proposed remedial action plan for compliance of orders, sources of funding, accountability for past failures, methodology for execution of the Yamuna



Rejuvenation and restoration projects, as well as timelines consistent with the spirit of orders of the Supreme Court and NGT.

33. Consequently, the High-Level Committee held its first meeting on 20.01.2023 where an action plan was proposed for the purpose of monitoring important parameters for rejuvenation of river Yamuna as well as removal of all encroachments/dhobi ghats in the floodplains area, wherein the DDA and PWD were called upon to repossesses the floodplains area and undertake a major plantation drive in the vulnerable stretches of the floodplains. Thereafter, the High Level Committee held subsequent meetings wherein the projects undertaken by the DDA for the restoration and rejuvenation of floodplains including removal of encroachments were discussed in detail and *inter alia* directions were passed by the Lt. Governor to the DDA to take regular action for identifying and removing encroachments on floodplains besides taking steps for expeditious disposal of all cases pertaining to encroachments in the floodplains pending before this court.

34. Avoiding a long academic discussion, it would be pertinent to refer to a recent judgment by a Division Bench of this Court in the case of *Court on its own motion v. Union of India*¹², wherein the following directions were passed for restoration and rejuvenation of the Yamuna River Flood Plains:

“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.”

35. The sum and substance of the matter is that the land in question falls under the Zonal Development Plan for Zone- ‘O’ as approved by the Ministry of Urban Development¹³. Further, the Master Plan Delhi-2021 also envisages rejuvenation of river Yamuna through a number of measures including ensuring adequate flow in the river by release of water by riparian states, refurbishment of trunk sewers, treatment of drains, sewerage of unsewered areas, treatment of industrial effluent, recycling of treated effluent and removal of coliforms at Sewage Treatment Plants besides creating an ecological balance by planting trees. The land in dispute is meant for larger public interest and the petitioners cannot claim any vested rights therein to continue to use and occupy the same for cultivation.

36. The position of the subject agricultural land is exemplified in the affidavit of Mr. Rakesh Kumar, Deputy Director (Land Management), DDA dated 31.08.2023, wherein it is brought out that:



“7. It is further submitted that the Yamuna River river bed on both sides of river Yamuna falls in four villages which are Bela, Inderpat, Chiragah Janubi and Chiragah Shumali and all the aforesaid villages were placed at the disposal of DIT (erstwhile DDA) vide Nazul Agreement dated 31.03.1937. The respondent No. 1/DDA has the right to protect its land from any form of encroachment. Furthermore, the subject land is a part of “O Zone” of the MPD-2021 (Master Plan of Delhi), which are the 1 in 25 years floodplains, on which any activity whether commercial/residential/agricultural is illegal and is completely banned.

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13. That it is further submitted that the land which is being blatantly encroached by the Petitioners is a part of the Public Project of ‘Restoration and Rejuvenation of River Yamuna Project’ which involves the development and construction of ‘**Yamuna Vanasthali**’. This project is being under taken by the Respondent/DDA on 236 Hectares of land, with the following objects and aims:

- i. Firstly, by protection of floodplains - by demarcation of the Yamuna floodplains and repossession of the floodplains under encroachment;
- ii. Secondly, by restoration of the wetlands - by deepening and enlarging the existing depressions and creation of wetlands;
- iii. Thirdly, by attempting to build a connect for the general public with the Yamuna River - by means of providing public spaces connected with kaccha pathways, cycle tracks and seating areas in the Greenways, for recreation of public at large.

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14. Phase 1 of the Project of “Yamuna Vanasthali” has been undertaken at an estimated cost of more than Rupees Twenty Crores, of which tenders for a sum of more than Rupees Eleven Crores have already been awarded for civil and horticulture work. More than 85% of the estimated work, including construction of pathways, cycle tracks, water body, gates and entrance plaza stand completed



as on date, and remaining is held up due to encroachments, including by the Petitioners under the present Petition.”

37. In view of the foregoing discussion, this Court has no hesitation in holding that the petitioners have no legal right to claim possession and right to cultivation over the subject agricultural land. The petitioners are not even able to demonstrate as to how much land is now left or remains unused, which they claim to keep occupying for cultivation. The photographs placed on the record coupled with the joint inspection report by the concerned officials bring out that no cultivation is taking place at the site. The subject agricultural land although described as ‘agricultural land’ is plainly encompassed in the Yamuna River bed areas and it is required to be rid of encroachments, in the larger public interest in terms of directions passed by the Supreme Court and the NGT besides this Court in an umpteen number of cases, some of which have been referred hereinabove. It is also deposed in the affidavit by Mr. Rakesh Kumar dated 31.08.2023 that 85% of the construction work of the project road in the area is complete but the remaining work is held up due to interference on the part of the petitioners.

38. Resultantly, the instant Writ Petition is dismissed with costs of Rs. 10,000/- imposed on each of the petitioners, which be paid to the respondent/DDA.”

12. Reference may also be invited to the decision of this Court in *Chander Bhan (supra)*, wherein this Court noted that the petitioners therein had concealed the fact that *Mangal (supra)* had already been filed before this Court; and ultimately came to dismiss the said petition *vide* judgment dated 16.07.2024 on similar grounds as reproduced hereinabove. The relevant observations of this Court are reproduced hereinunder:

“16. First things first, the petitioner has concealed the fact that he has instituted another Writ Petition bearing W.P. (C) No.



7135/2019 titled as “*Mangal v. Union of India*”, wherein reliefs are sought based on almost identical facts with regard to agricultural land falling in bearing Khasra No. 16/25-31 (Min), which is the same one as in the present case except for the plot number being different in the instant matter. The said fact should have been made a clean breast of in the instant petition, which fact was observed by this Court even while entertaining the instant writ in the order dated 28.03.2024.

17. Be that as it may, a bare perusal of the averments in the writ petition would show that subject property was allotted to the predecessor-in-interest Bhima S/o Mr. Harbal *vide* letter dated 01.10.1962 for cultivation for a year only ending by 15.06.1963, for which rent was to be deposited @ Rs. 250/-. However, no rent was ever deposited by the predecessor-in-interest and if the averment of the petitioner is believed, the subject property was sold by Bhima S/o Mr. Harbal. The predecessor-in-interest of the petitioner, namely Bhima S/o Mr. Harbal had no right, title or interest in the property in question. The plea that the subject property was allotted in lieu of land acquired at Indraprastha Estates is completely misconceived and ill conceived. There is placed on record no document that the predecessor-in-interest was owning any land at Indraprastha Estates from which he was uprooted for construction of Rajghat Power House. Merely, because name of Bhima S/o Mr. Harbal was mentioned in the list of allottees brought out by the respondent *vid* Serial No. 1 is no conclusive evidence that he was ever given any lease rights in respect of the subject property. By all means, the site was allotted to Mr. Bhima S/o Mr. Harbal on humanitarian grounds for cultivation and evidently, he was allowed to cultivate the subject property thereafter but without any payment of rent.

18. It would bear repetition that as per the petitioner, the subject property was sold by Mr. Bhima S/o Mr. Harbal in favour of the Mr. Jhamman Lal S/o Ganga Ram *vide* sale documents dated 03.07.1975 from whom the petitioner allegedly purchased the subject property by virtue of sale documents dated 14.06.1995. If the case of the



petitioner is believed, it is apparent that in the earlier proceedings under Section 4 of the PP Act pursuant to SCN dated 30.01.1991 by virtue of which eviction order dated 20.08.1991 was passed, no challenge was made by Bhima S/o Mr Harbal and for that matter Jhamman Lal, which resulted in judgment delivered by the learned ADJ, Delhi under Section 9 of the PP Act dated 18.11.1995.

19. Suffice to state that the *jamabandi* records as also *khasra girdwari* for all the relevant years clearly shows that owner/landlord of the property has always been government i.e. *Sarkar Daulat Madar*. In fact, the copies of *khasra girdwari* report placed on the record by the petitioner showing position as on 15.10.1975, 21.04.1978, 13.04.1977 and lastly on 04.06.1987 do not show Bhima or for that matter Jhamman Lal as the cultivator in occupation and rather it shows Jagpat S/o Khabdu non ancestor in cultivation besides clearly showing that owner is described *Sarkar Daulat Madar* i.e. the government.

20. Further, the status of the plot has been clearly brought out in the affidavit of Mr. Praveen Dwivedi, Deputy Director, DDA dated 15.04.2024 in which it is deposed as under:

“9. Without prejudice to the foregoing, it is respectfully submitted that Khasra No. 16 (min) of Village Chiragah Shumali, Delhi consists of approximately 350 Bighas, which belongs to the DDA. The Petitioner has not filed any site plan or any other plan showing the identification of alleged 8 Bigha and 7 Biswas, qua which the present Petition has been filed. However, the photograph placed on record, wherein vacant land can be seen, is nowhere in the vicinity of the Plot No. 1, wherein the Petitioner is claiming right.

10. I say that vide *jamabandi* for the year 1973-1974, the land in question - Khasra no. 16 is shown as Government land in the revenue records and placed at the disposal of the Delhi Development Trust, the predecessor of the DDA vide Nazul Agreement. Admittedly the land in question, i.e. Khasra no. 16 (min) in revenue estate of Chiragah Sumali is Nazul land, i.e. government land and is a public premises. The revenue record in the nature of *jamabandi*, also in the column of owner the land in question has been shown as Sarkar



Daulat Madar. A copy of the Jamabandi for the years 1973- 74 is annexed hereto as Annexure “A- 3”.

11. A part of the entire land under said Khasra No. 16 was further allotted to the Public Works Department for the public purpose of making development plan for convenience of larger public for easement of traffic by constructing road, construction of flyover and loops intersection at Shastri Park intersection and Seelampur. The work for construction of said flyover and loops also stands completed on 30.09.2020.

12. Even otherwise, no title document of ownership, containing details of the said Bhima, son of Harbal, in whose favour the land was purportedly allotted by the DDA is found under the present Writ Petition. Some purported documents in the form General Powers of Attorney, Agreements to Sell, Gift Deeds and Will deeds have been filed along with the Petition, which cannot be held to confer any right or title upon the Petitioner. The Petitioner has further failed to present any proof to substantiate his claim of being in settled possession of the subject site. Moreover, the nature of the purported documents raises highly disputed questions of fact that cannot be adjudicated in a writ proceeding and the Petition is liable to be dismissed.

13. The land in question wherein the boundary wall is being repaired is in the possession of the DDA and is vacant land. The portion of the land was handed over by the Tehsildar Nazul Section to Executive Engineer, Eastern Division 2/DDA on 05.07.2016. for maintenance and protection from encroachment. A copy of the letter dated 31.01.2017 recording the said handover on 05.07.2016, along with the site plan is annexed hereto as Annexure “A-4”. The boundary wall constructed around the said vacant land was damaged from time to time by the encroachers in the vicinity and is being reconstructed.

14. The alleged plot no. 1 wherein the Petitioner is claiming right is nowhere in the vicinity of the said vacant land or the boundary wall. Even otherwise, the Petitioner is a rank encroacher on the land of the Government falling on the Yamuna River Bed and now



claiming right after creating unauthorized encroachment. The Petitioner has no right, title or interest in the land in question. The predecessors of the petitioner were earlier encroachers on the Government land in Inderprastha Estate. During 1962 these unauthorised encroachers were evicted from Inderprastha Estate for construction of Rajghat Power House. On humanitarian ground, the 32 cultivators/encroachers were given land for cultivation only on the basis of temporary lease for one year in Chiragha Shumali in the year 1962.

15. It is further submitted that the Yamuna River Bed on both sides of River Yamuna falls in 4 villages which are Bela, Inderpat, Chiragah Janubi and Chiragah Shumali and all the aforesaid villages were placed at the disposal of DIT (erstwhile DDA) vide Nazul Agreement dated 31-03-1937. The Respondent/DDA has the right to protect its land from any form of encroachment. Furthermore, the subject land is a part of “O Zone” of the MPD-2021 (Master Plan of Delhi), which are the I in 25 years floodplains, on which any activity whether commercial/residential/agricultural is illegal and is completely banned.

16. That the Petitioner is responsible for carrying out commercial activities, agricultural activities along with livestock rearing and living on Yamuna's flood plains and their encroachment has a direct adverse impact on the river's morphology and ecology. Such activities are not only detrimental to the ecology and morphology of the Yamuna, but are directly prohibited by the Hon'ble National Green Tribunal. Moreover, the waste material from these sites is being dumped in the Yamuna River, immensely polluting and destroying the river. The dumping of waste material in the Yamuna River is completely in the teeth of the Orders of the Learned National Green Tribunal. The Respondent No. 1/DDA has been entrusted with the affirmative duty to fiercely protect the River Yamuna, its morphology and its flood plains.”

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23. Ms. Prabhsahay Kaur, learned standing Counsel for the DDA reiterates that the subject property shown in yellow in the site plan



on the extreme left is *Khasra* No. 16 *Min*, is a vacant plot of land and across the road, there is plot No. 29. It was pointed out that the site plan was prepared at the time of handing over of the possession by the Tehsildar Nazul Section to the Executive Engineer, Eastern Division-2/DDA on 05.07.2016 as deposed *vide* paragraph (03) of the affidavit dated 15.04.2024. This position is made clear from the photographs placed on the record by the DDA on 05.11.2020 which evidently show a vacant plot of land having boundary wall upto the height of 3 to 4 feet, which the defendant is trying to repair/rebuilt in order to prevent it from being encroached.

24. In view of the above, while providing that the reasons given in the aforesaid case may also be read as part and parcel of this judgment, the subject property is admittedly vacant land and there exists no construction. Thus, the plea of the petitioner that the wall is being constructed appears to be absolutely wrong and misleading inasmuch as the photographs placed on the record would show that a boundary wall upto the height of 3-4 feet has always existed. The plea of the petitioner that the possession of the subject property had not been taken prior or pursuant to the judgment dated 18.11.1995 is clearly belied from the photographs placed on the record as also the documentation. The crux of the matter is that the petitioner has failed to show as to where the property is located and what are the measurements or dimensions of the plot in question.

25. The above discussion brings to the fore that the petitioner is unable to show the existence of any legal right, title or interest in the subject property. He is also guilty of concealment and misrepresentation of facts, taking self contradictory stands in the present writ as also in another writ bearing W.P. (C) 7135/2019 titled as "*Mangal v. UOP*". There is no denying the fact that the subject property falls in 'Zone-O' of the Yamuna floodplains. This Court has also given detailed reasons in the writ petition bearing W.P. (C) 7135/2019 titled as "*Mangal v. UOP*", which is also being disposed of *vide* a separate judgment today, setting out the chronological history of directions which have been passed by the Supreme Court, NGT, as well as this Court with regard to removal of unauthorized



constructions and encroachments over the Yamuna riverbed, which is required in larger public interest.

26. In view of the foregoing discussion, the present writ petition is dismissed. The petitioner is burdened with costs of Rs. 25,000/- to be deposited with the Registrar General of High Court of Delhi, New Delhi, which shall be deposited within a month from today and be paid over to the respondent/DDA.”

13. In view of the aforesaid discussion, this Court faces no hesitation in holding that the present petition constitutes a gross abuse of the process of law as evidently, the individuals on whose behalf the present petition has been filed have made it a habitual practice to repeatedly approach this Court by instituting multiple petitions, *albeit* under different guises, despite the cause of action and relief sought remaining totally identical.

14. Needless to state, the mere fact that the present petition has been instituted by the sons of the petitioners in *Mangal (supra)* does not give rise to a fresh cause of action in law. Such conduct demonstrates a blatant disregard not only for the sanctity of the prior decisions of this Court, but also for the principle of finality in litigation.

15. It is well ordained in law that the principle of *res judicata* applies to writ proceedings, thereby precluding the same parties or their successors-in-interest from re-litigating issues that have already been conclusively determined by the writ Court. Permitting such successive petitions would not only burden this Court but also undermine the integrity of the writ jurisdiction under Article 226 of the Constitution of India, 1950.



16. In view of the foregoing discussion, this Court has no hesitation in holding that the persons being represented by the petitioner herein are rank encroachers with no legal right to continue to use and occupy the said agricultural land. It bears repetition that the said agricultural land falls within the ambit of the Zonal Development Plan for Zone 'O,' as sanctioned by the Ministry of Urban Development³, 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 the directions passed by the Supreme Court as well as the National Green Tribunal. This Court has also time and again held that pollution in the Yamuna River has reached a critical level, necessitating immediate and effective remedial action, and any further delay in efforts to restore and rejuvenate the River cannot be tolerated. Resultantly, the present writ petition stands dismissed for being devoid of any merits, and the petitioner is burdened with costs of Rs.10,000/- to be paid to the Delhi State Legal Services Authority, for filing a frivolous petition and wasting the precious time of this Court.

17. The pending applications also stand disposed of accordingly.

DHARMESH SHARMA, J.

MARCH 18, 2025

Sadiq/ES

³ 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