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

% **Date of decision: 3rd September, 2024**

+ W.P.(C) 4746/2016 & CM APPL. 48336/2019, CM APPL. 48337/2019

SURESH CHANDER CHADHA & ORS.Petitioners

Through: Mr. Kunal Sinha, Mr. Sarthak
Sharma & Mr. Aditya Mishra,
Adv.

versus

DELHI DEVELOPMENT AUTHORITYRespondent

Through: Mr. M.K. Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

J U D G M E N T

1. The petitioners are invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking issuance of an appropriate writ or directions against the respondent i.e. the Delhi Development Authority [**“DDA”**] to process their request for conversion of their property bearing No. 937-A, Block-D, New Friends Colony, New Delhi (*hereinafter referred as the ‘**subject property**’*) from leasehold to freehold and to execute a Conveyance Deed in their favour.

2. Shorn of unnecessary details, petitioner No.1 is the son of late Shri Munshi Ram Chadha whereas the other son Shri Harish Chander



Chadha has expired long time back, as would be discussed in this judgment, and thus, the petitioners No. 2 and 3 are the son and daughter of Shri Harish Chander Chadha respectively. Admittedly, the subject property was allotted in the name of late Shri Munshi Ram Chadha and a perpetual sub-lease was executed by the Respondent/DDA in his favour, however Shri Munshi Ram Chadha eventually died on 09.09.1983 leaving behind a Will dated 24.09.1979, thereby bequeathing the subject property in favour of his wife Smt. Sita Wanti Chadha. The subject property was mutated in her name on 07.01.1992 but then she also passed away on 14.10.2007 leaving behind a registered Will dated 04.03.1993, whereby *inter alia* she bequeathed the subject property in favour of petitioner No.1 and also the father of petitioners No. 2 and 3 in equal shares absolutely to the exclusion of other legal heirs.

3. In the said backdrop, the petitioners/brothers applied for mutation of the subject property in their favour on 25.06.2008 after obtaining a No Objection Certificate [“NOC”] from New Friends Cooperative Society, wherein the subject property is located, and also applied based on the registered Will left behind by their mother dated 04.03.1993. It appears that a third party intervened, which also had applied for conversion of subject property from leasehold to freehold in their name with the Respondent/DDA. On representation dated 14.07.2008 preferred by the petitioners/brothers, it transpired that a Civil Suit being CS (OS) No. 90/2010 titled ‘Jaideep Sangwan & Anr. v. Sumit Chadha & Ors.’ had been instituted, thereby seeking possession of the subject property through specific performance, based



on an agreement to sell dated 20.02.2004, in which an interim order dated 04.02.2010 came to be passed by this Court directing the Respondent/DDA not to pass any order in respect of the mutation of the subject property. It is pertinent to mention here that father of the petitioners No. 2 and 3 died on 31.01.2010.

4. To cut the long story short, Suit No. 90/2010, wherein deceased Shri Harish Chander Chadha was arrayed as defendant No.9 stood abated against him for non-impleadment of his legal representatives *vide* order dated 17.02.2010. Though an application was filed by petitioners No. 2 and 3 on the death of their father for effecting the mutation of the subject property in their names to the extent of 50%, the same remained pending for consideration before the Respondent/DDA. Anyhow, this Court *vide* order dated 09.08.2011 in CS (OS) 90/2010 passed a detailed order and dismissed the interim application filed by the plaintiffs thereby vacating the interim stay order dated 04.02.2010 *inter alia* observing that the documents relied upon by the plaintiffs were forged and fabricated. Yet, the Respondent/DDA sent a reply dated 21.10.2011 stating that the request of the petitioners for mutation cannot be acceded to as the suit was still pending. Though the Respondent/DDA was apprised *vide* letter dated 21.10.2011 that the interim order had since been vacated on 09.08.2011, which had not been assailed or challenged, and thus acquiring finality, the respondent/DDA slept over the request and took no action.

5. It is stated that the petitioners were constrained to file a writ petition being W.P. (C) 3004/2014 against the respondent/DDA,



which was allowed *vide* order dated 26.05.2014, thereby directing the Respondent/DDA to process the application of the petitioners for mutation in accordance with law, without awaiting the final outcome of the suit proceedings and intimate the petitioners of their decision within four weeks therefrom. Eventually, the subject property was mutated in the name of the petitioners *vide* letter dated 13.10.2014.

6. That was not the end of the story. Intriguing as it may seem as also unpalatable, the second round of litigation began when the petitioners applied for conversion of leasehold rights into freehold rights *vide* their request letter dated 12.06.2015. The said request was rejected by the Respondent/DDA *vide* letter dated 30.12.2015 citing ditto grounds as in the earlier writ petition between the parties, to the effect that “*as the case is sub-judice in the Court of law in High Court of Delhi, request for conversion could only be considered after final judgment in the civil suit/case*”.

7. Aggrieved thereof, the petitioner is before this Court again. A reply has been filed by the Respondent/DDA and suffice to state that by taking an extremely cautionary approach, the Respondent/DDA reiterates that they are declining conversion on the ground that the same can only be done after the final outcome of the pending suit No. CS (OS) 90/2010.

ANALYSIS & DECISION:

8. Having heard the learned counsels for the parties and on perusal of the record, at the outset, this Court finds that the denial by the Respondent/DDA to process the application of the petitioners for conversion of the subject property from leasehold to freehold *vide*



application dated 12.06.2015 is unfathomable for being mis-conceived despite having an army of panel advocates and designated senior counsels at its command. The reasons are not far to seek. The subject property already stands mutated in the favour of the petitioners in terms of letter dated 13.10.2014 issued by the DDA. The plaintiffs in CS (OS) No. 90/2010 have not preferred to file any appeal against vacation of interim order dated 04.02.2010 *vide* order dated 09.08.2011. The question that arises is whom is the respondent/DDA protecting?

9. Interestingly, the learned counsel for the DDA brought to the fore that the Will executed by Smt. Sita Wanti Chadha dated 24.09.1979 was subject matter of the Probate Case No. 38/2019 titled as 'Sanjay Chadha v. State', and an application was filed bearing CM APPL. 48336/2019 by Shri Sanjay Chadha in the present proceedings for impleadment, which is reflected in the order dated 07.11.2019. This objection is a far cry in the wilderness. It is evident that the said application has not been pursued any further and no orders have been passed on the same by this Court.

10. All said and done, learned counsel for the petitioners brought on the record that the aforesaid Probate Case has since been dismissed *vide* order dated 30.08.2024 for having been abated on the death of the Shri Sanjay Chadha on 27.02.2024. It was clarified that Shri Sanjay Chadha was none other than the grandson of Smt. Sita Wanti Chadha from another son late Shri Madan Lal Chadha, who had been ousted from any right, title or interest in the subject property by his grandmother. At the cost of repetition, this cautionary approach of the



Respondent/DDA cannot be justified. It is patently unfair and such approach entails huge costs on the exchequer including the Respondent/DDA, that keep on pursuing such legally misconceived litigations and put enormous strain on the dispensation of justice in the Courts.

11. To sum up, there is no legal impediment in considering the application of the petitioners for conversion of the subject property from leasehold to freehold in terms of their application dated 12.06.2015. The interest of the Respondent/DDA can be safeguarded by directing the petitioners to execute a bond in favour of the Respondent/DDA to indemnify for any future claim or litigation against them by any third party with respect to the subject property.

RELIEF:

12. Accordingly, the present writ petition is allowed and a writ in the nature of mandamus is issued directing the respondent/DDA to process and consider the application dated 12.06.2015 bearing No. 0192602 for conversion of the subject property i.e. property No. 937-A, Block-D, New Friends Colony, New Delhi-110025 in favour of the petitioners within a period of six weeks on submitting an indemnity bond by each of the petitioners thereby undertaking to indemnify the respondent/DDA by executing a bond in the sum of Rs. 1,00,000/- duly notarized and also subject to the condition that they would move an application before the Court in the pending suit bearing No. CS(OS) 90/2010 bringing on record the decision in the present writ petition so as to enable the concerned Court to pass appropriate directions in accordance with law.



13. In the peculiar facts and circumstances of the case, the Respondent/DDA is burdened with token costs of Rs. 25,000/-, which be deposited with the Juvenile Justice Board, Delhi within four weeks from today. The imposition of cost is a reminder to the respondent/DDA that in a case like the instant one, a sincere and professional approach should have been adopted to negotiate for an amicable settlement through mediation or Lok Adalat. In the face of the fact that the legal position had already been pronounced by this Court in W.P. (C) 3004/2014 *vide* order dated 26.05.2014, the Law Department of the respondent/DDA could have avoided this prolonged litigation.

14. The writ petition is disposed of accordingly.

15. The pending applications also stand disposed of.

DHARMESH SHARMA, J.

SEPTEMBER 03, 2024

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