



GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
OFFICE OF THE SUB DIVISIONAL MAGISTRATE (KANJHAWALA)
DC OFFICE COMPLEX, KANJHAWALA, DELHI-110081
(sdmkanjhawala@gmail.com)

NO. RA/SDM/K/21/ 5833

Dated: 08/09/2021

Case No. 3227

Under Section 85 of DLR Act, 1954

ORDER

DHARMIR SINGH & ORS V/S DESH RAJ & ORS

1. By this order, I shall dispose of the petition under section 85 of Delhi Land Reforms Act 1954 in respect of the land comprised in Khasra no.9/7/2 (1-0), 14/1 (4-00), 14/2 (0-8), 15/2 (2-2) & 10/13 (1-12) situated within the revenue estate of village Jat Khore, Delhi.
2. The petitioner Sh. Dharamvir Singh and Sh. Vikram Singh, both sons of Lt. Sh. Gugan Singh filed a petition dated 31.03.2015 under section 85 Delhi Land Reforms Act, 1954 for declaration of bhumidari rights in respect to the agricultural land measuring (01 bighas 16 biswas) out of land Khasra No.9/7/2 (1-0), 14/1 (4-00), 14/2 (0-8), 15/2 (2-2) & 10/13 (2-12) total land measuring (10-15) biswas situated in revenue estate of village Jat Khore respectively against the 8 respondents, out of which respondent no.2 to 8 are proforma parties to the present petition.

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The factual matrix leading to the present petition is as follows:-

3. The petitioners are claiming their bhumidhari rights on the above mentioned land on the ground that their grandfather Sh. Khere Singh, then their father Late Sh. Gugan Singh were in cultivation possession of the land since 1967. The present suit land has been subject matter of multiplicity of litigation as detailed below.
4. The respondent No.1, Sh. Deshraj had filed a suit for ejection against the petitioner before the court of Revenue Assistant, in the year 2008, vide case no.2593/RA/SDM/SV, the same was dismissed on the ground that petitioner (Sh. Desh Raj) has filed a civil suit bearing suit No.272/10/08 in the court of civil judge, Tishazari which is already decided vide order dated 12.09.2012.
5. On perusal civil court order dated 12.09.2012, it is found the court has passed a decree of permanent injunction in favour Sh. Desh Raj restraining Late Sh. Gugan Singh (father of petitioners) from interfering in any manner in peaceful possession and occupation in suit land without due process of law. Further, the civil court has proceeded against all the defendants as ex-parte. Moreover, the court while deciding on the issue that 'whether Sh. Desh Raj is in possession of the suit property', the court has called the revenue records of the case file bearing no.2404/RA/SDM/SV/07 titled as Gugan V/s Desh Raj & Ors, wherein Sh. Gugan Singh had withdrawn his petition U/s 85 of the DLR Act, 1954. Furthermore, the court had inter-alia also decided on the issue on possession of suit property in favour of Sh. Desh Raj as the Sh. Gugan Singh did not lead any evidence to prove his possession.

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6. Consequently, the petitioner Sh. Dharamvir Singh and Sh. Vikram Singh has filed an application under order IX Rule 13 CPC against the order dated 12.09.2012 before the court of Senior Civil Judge, Tis Hazari, wherein the court of senior civil judge vide its order dated 04.12.2014 has set-side the ex-parte order dated 05.07.2012 and judgement and decree dated 12.09.2012 and ordered it to restore to its original suit. Later, the Court of Senior Civil Tis Hazari dismissed the suit on ground of non prosecution vide order dated 05.03.2014.
7. Further, the then Revenue Assistant has dismissed the case on 2404/SDM/SV/RA/07 titled Sh. Guggan V/s Sh. Desh Raj under Section 84 of DLR Act on default of appearance vide its order dated 15.11.2010 in Case no.2404/SDM/SV/RA/07, titled as Guggan V/s Desh Raj & Ors.
8. Another case no.2593/RA/SDM/SV/09 titled Deshraj V/s Guggan, the case was dismissed in default of appearance by petitioner.
9. It is in these circumstances that the present applicant, Dharmbir Singh & Ors filed the present application against present respondent No.1 to 8 namely Sh. Desh Raj, Smt. Bira Devi W/o Sh. Ved Singh, Smt. Kamlesh W/o Sh. Surender Singh, Smt. Sumitra W/o Sh. Narender Singh, Smt. Babita W/o Sh. Devender Singh, Sh. Sahib Singh S/o Sh. Sabha Chand, Sh. Sunil Kumar & Arun Kumar S/o Sh. Azad Singh under Section 85 of DLR Act, 1954, praying that the petitioner may kindly be declared bhoomidhar of agriculture land bearing measuring Khasra No. (1 bigha 16 biswas) out of bearing Khasra No.9/7/2 (1-0), 14/1 (4-00), 14/2 (0-8), 15/2 (2-2) and 10/13 (2-12) total land measuring (10-15), situated at

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revenue estate of village Jat Khore, Delhi and direction be given to authorities to effect mutation in the name of applicant of the same in the year 2015.

10. In the above Section 85 petition filed, the petitioners have claimed that they received late information of their appeal being dismissed on the basis of ex-parte decision in r/o case no.2593/RA/SDM/SV instituted in the year 2008. The appeal was dismissed on 07.11.2012, in response, the petitioner had moved a application in Civil Court dated 20.01.2013 and thereafter the same court has dismissed the suit of defendant no.1. Therefore, it is the claim of the petitioner that now the cause of action is accrued from the date of 05.03.2015, hence this petition.
11. Additionally, a second application was also received form the applicant Sh. Dharambir Singh praying for issuance of restrain / stay to the respondent, Sh. Deshraj & Ors for creating third party interest or any interference in possession of the applicant as per the under order 39 rule 1 & 2 read with section 151 CPC, in regarding land bearing measuring (1 bigha 16 biswas) out of bearing Khasra no.9/7/2 (1-0), 14/1 (4-0), 14/2 (0-8), 15/2 (2-2) and 10/13 (2-12) total land measuring (10-15), situated in the revenue estate of village Jat Khore, Delhi, on behalf of the applicants.
12. During the pendency of the proceedings, it was clarified that respondent no 2 to 8 namely Smt. Bira Devi W/o Sh. Ved Singh, Smt. Kamlesh W/o Sh. Surender Singh, Smt. Sumitra W/o Sh. Narender Singh, Smt. Babita W/o Sh. Devender Singh, Sh. Sahib Singh S/o Sh. Sabha Chand, Sh. Sunil Kumar & Arun Kumar S/o Sh. Azad Singh are proforma parties. Accordingly, the case against them stands withdrawn. The fact in issue in the present

proceedings is whether bhumidari rights can be granted to the Dharambir Singh for Khasra no. 9/7/2 (1-0), 14/1 (4-00), 14/2 (0-8), 15/2 (2-2) & 10/13 (1-12) situated in the revenue estate of village Jat khore, Delhi under section 85 of DLR Act, 1954.

13. Both parties were given multiple opportunities to present their claim. Written statements received from all respondents are on file & have been perused.
14. The Halka Patwari (Kanjhawala) vide order dated 14.09.2020 was directed to submit report on physical possession and occupancy of land and copy of khasra girdawari for the disputed suit property for last 3 years. The Halka Patwari (Kanjhawala) had submitted its report dated 18.11.2020, wherein he submits that out of khasra no.9/7/2(1-0), 14/1 (4-0), 14/2 (0-8), total (5-16) in east direction (4-16) the land is in possession of Smt. Biro Devi W/o Sh. Ved Singh, Smt. Babita W/o Sh. Devender Singh, Smt. Sumitra W/o Sh. Narender Singh, Smt. Kamlesh W/o Sh. Surender Singh, Smt. Sudesh Rani W/o Sh. Bharm Prakash. In west direction (1-0) land is in possession Sh. Dharamvir Singh and Sh. Vikram-Singh S/o Sh. Gugan Singh. It is the respondent's case that the possession of Dharamvir Singh is forceful.
15. The Halka Patwari report further submits that out of Khasra No.9/15/2 (2-2) and 10/13 (2-17) total (4-19) the land is in possession of Smt. Biro Devi W/o Sh. Ved Singh, Smt. Babita W/o Sh. Sh. Devender Singh, Smt. Sumitra W/o Sh. Narender Singh, Smt. Kamlesh W/o Sh. Surender Singh, Smt. Sudesh Rani W/o Sh. Bramprakash, 5/6 share is in possession of Sh. Desh Raj S/o Sh. Sopha Chand and 1/6 share is equally in possession of all share holders.
16. The applicant was given multiple opportunities to be present, however no appearance has been noted on behalf of the applicant since 2018.

17. It is on record that the land is one with joint holding and all bhumidars are co-shares. The khasra girdawari of various years too records the name of multiple persons Smt. Biro W/o Sh. Ved Singh, Smt. Kamlesh W/o Sh. Surender Singh, Smt. Sumitra W/o Sh. Narender Singh, Smt. Babita W/o Sh. Devender Singh, Sh. Desh Raj S/o Sabha Chand and Smt. Sudesh Rani W/o Sh. Brahm Prakash, including the respondents, as being the cultivators.

18. As per Khatouni, the recorded bhumidars are Smt. Biro W/o Sh. Ved Singh, Smt. Kamlesh W/o Sh. Surender Singh, Smt. Sumitra W/o Sh. Narender Singh, Smt. Babita W/o Sh. Devender Singh, Sh. Desh Raj S/o Sabha Chand and Smt. Sudesh Rani W/o Sh. Brahm Prakash. Despite multiple opportunities, the applicant has not been able to furnish any proof showing continued possession in the land. The applicant has not been able to furnish any concrete evidence to support his Section 85 petition which is made more evident by the fact that multiple applications / petitions filed by the applicant at various forums regarding the same course of action have been dismissed.

19. Further, the present application is also without any cause of action, as no cause of action arose in 2015 due to no new circumstance accruing in the meantime giving rise to the Section 85 petition. The present application is a piece of vexatious legislation.

20. In view of the above I see no reason to admit the present application. Now therefore, I SAUMYA SHARMA, IAS, RA/SDM (KANJHAWALA) in exercise of power conferred upon me as RA (Kanjhawala) under section 85 of the Delhi Land Reforms Act, 1954 hereby ordered that the proceeding under section 85 of DLR Act is dismissed. It is hereby ordered

that the land in question shall continue to be cultivated by the recorded bhumidars only and any illegal occupation shall be forthwith vacated, including that of the petitioners.

Tehsildar (Kanjhawala), concerned Kanungo and Patwari are directed to update the land record accordingly.

SHO (Kanjhawala) is directed to ensure compliance.

File to be consigned to record room.

Given under my hand and seal of this court on this day 08 day of 09 2021

(SAUMYA SHARMA), IAS
REVENUE ASSISTANT /
SDM (KANJHAWALA)



Copy to:-

1. PS to DM/Collector (NW) for information
2. Tehsildar (Kanjhawala) for necessary
3. SHO (Kanjhawala) for necessary action.
4. BDO (North-West) for necessary action
5. Assistant Programmer (IT), NIC Branch Kanjhawala to upload it on the official website.
6. Halka Patwari / Kanungo concerned for updating record.
7. Smt. Biro Devi W/o Sh. Ved Singh R/o Village Jat Khore, Delhi
8. Smt. Kamlesh W/o Sh. Surender Singh R/o Village Jat Khore, Delhi
9. Smt. Sumitra W/o Sh. Narender Singh R/o Village Jat Khore, Delhi
10. Smt. Babita W/o Sh. Devender Singh R/o Village Jat Khore, Delhi
11. Smt. Sudesh Rani W/o Sh. Bhram Prakash R/o Village Singhu, Delhi
12. Sh. Dharambir S/o Lt. Sh. Guggan R/o Village Jat Khore, Delhi
13. Sh. Vikram Singh S/o Lt. Sh. Guggan R/o Village Jat Khore, Delhi

(SAUMYA SHARMA), IAS
REVENUE ASSISTANT /
SDM (KANJHAWALA)

