



GOVERNMENT OF NCT OF DELHI
OFFICE OF SUB DIVISIONAL MAGISTRATE VASANT VIHAR
6th FLOOR, PALIKA BHAWAN, SECTOR - 13, RK PURAM, NEW DELHI
1st November 2021

No.SDM/VV/2021/ 4310

In the matter of:

STATE VS. PREM NARAIN SHARMA

Kalandra u/s 145 Cr. PC dated 10/12/2021 was received in the office regarding illegal construction and illegal possession upon the land at Khasra No. 1451 and 1452 at Ruchi Vihar, Near Shiv Mandir, Rangpuri Pahadi.

The first party, Mr. Kapil Aggarwal stated that some persons tried to grab his property measuring 1000 Sq. Yards in plot of land comprising Khasra No. 1082, 1085, 1086, 1088/2, 1092/1, 1092/2, 1434/1, 1450, 1451, 1452, 1808 & 1809 situated at Ruchi Vihar, Ranguri. The second party, Prem Narain Sharma claimed documents for Khasra No. 1811 situated in Rangpuri which he had given to Khalil Ahmad Khan through GPA.

It is mentioned in the Kalandra that the first party, Mr. Kapil Aggarwal S/o R K Aggarwal has some registered documents, but the second party Sh. Prem Narain Sharma S/o Ram Singh Sharma failed to produce original documents. Both the parties are claiming that plot area with different Khasra No. and trying to occupy the same property.

On 05/01/2021, a status report was called from Tehsildar, which was subsequently submitted on 21/01/2021 in which status of 13 Khasra Numbers as mentioned in para 2 was submitted which showed that a godown and boundary wall exists on Khasra No. 1808 (5-19).

The then SDM, unsatisfied with status report as it did not show the possession of both parties called for fresh status report clearly showing the Khasra No. of disputed land.

Meanwhile Sh. P N Sharma through counsel on 12/01/2021 submitted that he has no dispute with Sh. R K Aggarwal and they may be owner of different property by getting executed GPA which is having a lot of Khasra Nos. wherein 1811 is not mentioned. He further submits the chain property ownership of Khasra No. 1811 from Sh. Ratan Kaul, his father and then to him based on GPAs, he further submits that he has sold the property to Sh. Shyam Sunder Goyal for making payment to Standard Chartered Bank in a separate court matter.

A report dated 06/02/2021 by Halka Patwari was submitted which clearly mentioned that there exists a godown on the disputed land which was owned by Sh. P N Sharma which has further been sold to Goyal. As per sizra, the godown lies in Khasra No. 1808 and not in 1811 (as claimed by Sh. P N Sharma/ S S Goyal).

The case was called on 03/03/2021 in which the then SDM directed to execute demarcation of disputed land and the expenditure will be done by both the parties; both the parties were directed to apply for demarcation of their land via TSM/CDPS. This was agreed to both parties as is evident from signature of both parties on the note sheet/proceedings as well as joint application dated 03/03/2021 submitted by Sh. R K Aggarwal and Sh. P N Sharma in which they agreed to pay 50% of the cost each.

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11/11/21

The demarcation notice was issued by Tehsildar, Vasant Vihar on 11/03/2021, which was sent to 14 parties including R K Aggarwal and P N Sharma. The demarcation was carried out on 22/03/2021 but no one was present on behalf of P N Sharma, but he submitted letter dated 22/03/2021 which was received in the office on 26/03/2021 to adjourn/stay the demarcation on some legal grounds:

1. That he did not get time to deposit cheque of Rs. 25000/- in favour of Surveyor Bhardwaj.
2. That he had filed an application to dismiss the Kalandra in question.
3. That since the above application is pending in SDM, Vasant Vihar office, demarcation cannot be processed.

The above grounds cannot be considered as demarcation is being carried out as part of the proceedings of the Kalandra.

Further, P N Sharma submits that the Kalandra u/s 145 was regarding illegal possession and illegal construction upon the land at Khasra no. 1451 and 1452 and not Khasra no. 1808. But the Kalandra did mention Khasra No. 1808 later on and thus this ground also does not hold true.

The demarcation was carried out and the map was submitted on 03/04/2021, which showed two Khasra no. 1808 and 1811 in question:

1. Khasra No. 1811: Ownership claimed by P N Sharma through various GPA.
2. Khasra No. 1808: Ownership claimed by R K Aggarwal through sale deeds/GPA.

Both the parties, with their set of documents claimed ownership of the plot in question, which can be resolved only through demarcation and exactly determining which Khasra lies where. In proceedings under section 145 Cr. PC, it is not for the Magistrate to decide a dispute relating to the right of possession. The Magistrate has to decide only the factum of possession & not the right to possession.

The case was again called on 05/04/2021 in which Sh. R K Aggarwal submitted copy of GPA in Khasra No. 1811. Sh. P N Sharma submitted copy of order of Hon'ble High Court of Delhi vide WP (C) 1974/2015 and CM Appls. 3543/2015 and 25614/2015.

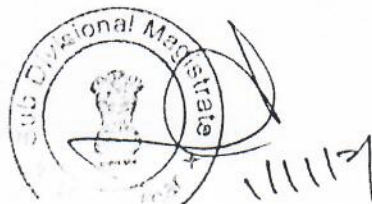
On the next date of hearing, i.e. on 21/06/2021 arguments of both the parties were heard and wherein they declined to submit any further documents for their claims. The proceedings were reserved for order.

Reports were also called from Kanungo on 21/06/2021 to submit a report based on the demarcation. Kanungo submitted report dated 07/07/2021 which further strengthened that earlier report dated 06/02/2021 of the Halqa Patwari that the godown lies in Kh. No. 1808 & partially in 1451 but this is under possession of Prem Narain Sharma/S.S. Goyal.

Report was called from Vasant Kunj South on 26/07/2021 regarding possession of the disputed land 60 days prior to filing of Kalandra, the reply to which is inconclusive.

It is however very clear that the only solution to the issue at land is through supply of demarcation map of Khasra No. 1808 & 1811, as in this case the parties are not disputing the land in question through documents of the same khasra no. – the parties are not claiming ownership of Kh. 1808 based on their chains of deeds/GPAs but both the parties have their own set of documents for 1808 & 1811:

1. Khasra No. 1811: Ownership claimed by P N Sharma through various GPA.
2. Khasra No. 1808: Ownership claimed by R K Aggarwal through sale deeds/GPA.



And thus with the demarcation map – the other party should naturally vacate the disputed land in question.

Conclusion:

The disputed land in question in which Prem Narain Sharma/Shyama Sunder Goel have constructed godown doesn't lie in Khasra No. 1811 as claimed by them but in Khasra No. 1808 & partially in Khasra No. 1451. Prem Narain Sharma has himself in his representation dated 22/01/2021 to this court has submitted that he claims ownership of Khasra No. 1811 through his father Late sh. Ram Singh and Sh. Ratan Kaul, and has made no claims over Khasra No. 1808.

Thus, it is clear that the godown constructed by P. N. Sharma is not in 1811 but 1808 & 1451 regarding which he has not submitted any claims.

However, it is reiterated that this court has no jurisdiction to decide the title except the proceedings u/s 145 CrPC. Demarcation map to be supplied to the SHO & parties for further necessary action.

Cost to be imposed on Sh. Prem Narain Sharma as he failed to deposit Rs. 25,000/- for demarcation as previously agreed to.

The proceedings u/s 145 are disposed.

Sub-Divisional Magistrate Vasant Vihar
New Delhi District



Copy for information and necessary action to:

1. SHO PS Vasant Kunj South for necessary action in the matter.
2. Sh. R. K. Aggarwal S/o Lt. Lala Triloki Nath, R/o 18, Yamuna Marg, Civil Line, Delhi 54
3. Sh. Prem Narain Sharma S/o Ram Singh Sharma, R/o Flat No. 231, Pkt. 5, Mayur Vihar, Phase-1, Delhi-110091
4. DIO (New Delhi) District New Delhi, 12/1, Jamnagar House, New Delhi – to upload the order on DC (New Delhi) web-site
5. PA to DC/DM (New Delhi), 12/1, Jamnagar House, New Delhi