IN THE COURT OF SH. AMIT KUMAR :
ADDL. DISTRICT & SESSIONS JUDGE-CUM-PRESIDING OFFICER,
APPELLATE TRIBUNAL, M.C.D., DELHI.

APPEAL NO. 473/ATMCD/2013 - Chander Shekhar Saxena Vs. DDA & MCD
APPEAL NO. 1014/ATMCD/2013 - Kaushal Devi Vs. DDA & MCD
APPEAL NO. 1015/ATMCD/2013 - Panna J. Shah Vs. DDA & MCD
APPEAL NO. 1016/ATMCD/2013 - Ravi Kumar (HUF) Vs. DDA & MCD

JUDGMENT

1. These are the four appeals challenging the sealing action dated 02.08.2007, done pursuant to the directions of the Monitoring Committee constituted by the Hon'ble Supreme Court in respect of property no. A-15, Sanjay Nagar, Village Mangolpur Kalan in appeal no. 473/13, in respect of property no. C-4, (Part) Sanjay Nagar, Village Mangolpur Kalan in appeal no. 1014/13, in respect of property no. A-29, third floor, Sanjay Nagar, Village Mangolpur Kalan in appeal no. 1015/13 and in respect of property no. A-29, second floor, Sanjay Nagar, Village Mangolpur Kalan in appeal no. 1016/13.
2. The brief facts necessary for disposal of these appeals are that the respective properties of the appellants were sealed as per directions of the monitoring committee. Hon'ble Supreme Court in IA No. 22/2013 in Writ Petition (C) Number 4677/1985 titled as M.C. Mehta Vs. Union of India vide order dated 30.04.2013 granted liberty to all the persons whose properties were sealed by the orders of the Monitoring Committee to prefer appeal before this Tribunal. As per appellants, they are the owners of respective properties out of Khasra No. 28/2 & 28/3, Village Mangolpur Kalan Delhi in the abadi of Sanjay Nagar having purchased the same through duly registered GPA etc. The properties were suddenly sealed on 02.08.2007 and on inquiry, it revealed that the property falls in the development area within the jurisdiction of Delhi Development Authority (DDA). These appeals have been preferred against this sealing action.
3. The appellants have challenged this sealing action on the ground that principles of natural justice were violated as no opportunity of reply and hearing was provided to the appellants. The alleged misuser is protected under National Capital Territory of Delhi Laws (Special Provision) Second

Amendment Act, 2011 being prior to 08.02.2007. Most of the properties in the abadi of Sanjay Nagar were de-sealed by the respondent and only the properties of the appellants are lying sealed. This action of respondent of selective action only against the properties of the appellants is arbitrary. The appellants are ready to pay the misuser charges and their properties should be de-sealed as they are ready to give an undertaking to not to misuse the same for any purpose other than those permissible under Master Plan Delhi-2021(MPD-2021).

4. Ld. counsel for the DDA on the other hand argued that to acquire the land of several Khasras including the khasra number where the properties of the appellants is located, notification under section 4 & 6 of the Land Acquisition Act was issued on 24.10.1961 and 25.07.1966. In the year 1974, 222 pieces of land forming part of the acquired land were allotted by Urban Development Department, Govt. of NCT of Delhi to landless people under 20 Point Program for 09 years without ownership right. Thereafter, the land was acquired vide award no. 18/1980-81 and the possession of entire land except of khasra no 28//1, 2 min (6 biswa), 3/2 min (2 biswa) & 8 min (2 biswa) was taken over by LAC & was handed over to DDA on 01.05.1980 and therefore, the entire land belongs to DDA. Once it was notified, same can neither be transferred nor any right of any nature can be created therein. After the possession was taken over by DDA, the landless allottee approached Hon'ble LG of Delhi and the Hon'ble LG on 22.01.1983 directed to return the land which had already been allotted to the landless person under 20 Point Program. It was argued that once the acquisition proceedings stood completed, no person was left with any right, title or interest therein and even on being returned the land, the said landless allottees were not vested with any sort of ownership right and the land belongs to DDA. 59 out of 222 plots were coming in the alignment of GDP road connecting Sector 2 & 3 of Rohini Residential Scheme and therefore, alternate plots were given by DDA to the said persons and only 163 plots were left under 20 Point Scheme. Since there was misuse of these properties, the same were sealed. The properties cannot be de-sealed being used for commercial establishments in violation of MPD-2021. Almost all the landless allottees have transferred the plots against consideration through GPA etc. which do not convey any title. The appellants are mere encroacher

on the public land belonging to DDA and therefore, the appeals should be dismissed. Reliance was placed on the judgment of Hon'ble Supreme Court titled as "*Shiv Kumar Vs. Union of India 2019 (10) SCC 229" and "Suraj Lamp Industries Pvt. Ltd. Vs. State of Haryana 2012 (1) SCC 656".*

5. I have perused the record. The properties of the appellants were sealed for misuser and on the ground of encroachment on DDA land. No opportunity of reply and personal hearing was provided to the appellants. The sealing action is therefore bad in law. The basic contention of the respondent DDA is that the land belongs to DDA and the appellants are only the encroachers upon the land. Even as per the case of DDA, the landless allottees were allotted these plots under 20 Point Program and the DDA as such only took symbolic possession of the land after the award no. 18/1980-81. The physical possession was never taken by DDA and the allottees raised construction on the respective plots.
6. Further, the Hon'ble LG, who is the head of the govt. directed the DDA to return the land which has been allotted to the landless persons vide his order dated 22.01.1983. DDA cannot claim that this order of the Hon'ble LG dated 22.01.1983 is not required to be followed in letter & spirit on the ground that once the acquisition proceedings stood completed, only DDA has ownership right of the property. DDA is bound by the orders of the Hon'ble LG.
7. Further, even if it is considered that the allotment under 20 Point Program was only for 09 years, the DDA cannot be permitted to pick & choose and seal the properties of only these four appellants out of 222 plots allotted under 20 Point Program. Even as per the case of the DDA, 59 out of these 222 plots were coming in the alignment of GDP road and alternate plots were given to those 59 persons. If DDA gave 59 alternate plots in lieu of those 59 plots which came in the alignment of road, DDA cannot claim that these plots or remaining 163 plots are owned by DDA and the appellants are mere encroachers. Had there been any merits in this argument, there was no need for DDA to give 59 alternate plots in lieu of 59 plots which came in alignment of road. If DDA was the owner, there was no need to give alternate plots to those 59 persons.
8. The DDA is bound by the orders passed by Hon'ble LG who vide order dated 22.01.1983 directed DDA to return the land which had already been allotted to

landless persons under 20 Point Program. The arguments of the ld. counsel for DDA that the appellants are not the original landless allottees is also meritless since the appellants have stepped into the shoes of those allottees and cannot be dispossessed from the respective plots without following the due process of law. Admittedly, there are 163 plots still left and most of them are now lying de-sealed and are in possession of the respective allottees or in possession of the persons who have taken possession, may be for consideration from the original allottees. DDA cannot be permitted to pick and choose and seal the property of only four appellants and permit the remaining occupants to enjoy their properties.

9. If there was any misuse as claimed by the respondents, the appellants are ready to pay misuser charges with an undertaking to not to use the property for any other purpose except those permissible under MPD-2021. The argument of the DDA that the appellants are required to approach the monitoring committee for de-sealing the property is also meritless since the Hon'ble Supreme Court permitted the affected person to approach this Tribunal vide order dated 30.04.2013 and as such, there is no need for the appellants to approach monitoring committee for de-sealing the properties.
10. In these facts all the four appeals are allowed. The respondent is directed to calculate the misuser charges and convey the same to the appellants within four weeks from today. The appellants are directed to deposit the said misuser charges and as and when the same are deposited, the respondent is directed to de-seal the property within a week thereafter. The appellants shall also furnish an undertaking to not to use the property for any purpose other than those permissible under MPD-2021. All the four appeals stand disposed of.
11. Record of the respondent, if any, be returned along with copy of this order and appeal files be consigned to record room.

Announced in the open Court
today i.e. on 08.06.2026

(AMIT KUMAR)
Addl. District & Sessions Judge-cum-P.O.
Appellate Tribunal, MCD, Delhi