

**BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL**  
**BENCH, NEW DELHI**

Original Application No. 339/2023

Deepti Gupta

Applicant

Vs.

Ministry of Environment and Forest and Climate Change & Ors.

Respondent(s)

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Engineer-in- Chief  
Irrigation and Water Resources Department  
Haryana, Chandigarh

Dated: 20 December 2023

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Vs.

Ministry of Environment and Forest and Climate Change & Ors.

Respondent(s)

**Response/ Reply/ Comments of Mr. Birender Singh, EIC, Irrigation and Water Resources Department on behalf of State of Haryana and other official respondents of the Haryana State, on the report of Joint Committee constituted by this Hon'ble Tribunal, in compliance of order dated 02 November 2023.**

**RESPECTFULLY SHOWTH:-**

1. That the present OA has been filed complaining discharge of sewage coming out from Jhuggis Clusters, open defecation into open area of CA Block Shalimar Bagh, Delhi. This Hon'ble Tribunal while hearing the aforesaid OA on 19 July 2023 constituted a Joint Committee comprising of Delhi Pollution Control Committee (DPCC), Municipal Corporation Delhi (MCD), Delhi Jal Board (DJB) and Delhi Urban Shelter Improvement Board (DUSIB) to visit the place and submit

factual and action taken report. The Joint Committee submitted its report on 18 August 2023. The DPCC through its Senior Environmental Engineer submitted the report of Joint Committee before this Tribunal vide application dated 13 September 2023. The observations of the committee are as under:-

- a. *The Jhuggi clusters are established on the land belonging to department of Irrigation and Department of Forests, Govt of Haryana, on the bank of western Yamuna Canal. The distance between boundary wall of the society and the site in question is approximately 60 feet from the DDA flats and this is divided by road & boundary wall.*
- b. *The said jhuggi cluster has been notified by DUSIB vide cluster code 325 having 347 Nos. household & area about 586 Sqm. The photographs of the site where domestic waste water found being discharged, is attached herewith.*
- c. *A part of domestic wastewater generated from this jhuggi clusters are being discharged and out of which some waste water accumulating in question area. The remaining waste water found being discharged in the nearby drain adjacent to the CA Block. Shalimar Bagh.*
- d. *To facilitate JJC dwellers one Jan Suvidha Complex (JSC) is already existing and one more Jan Suvidha Complex (JSC)*

*found under construction by DUSIB with the proper collection and disposal of sewerage.*

- e. DUSIB official informed that proposal is being submitted for proper disposal of domestic waste water being generated from this jhuggi clusters by reconstruction of existing drain or by laying of new sewer line which will require a minimum 6 months duration to complete this work subjected to the approval of competent authority, land owning agency i.e. Govt of Haryana and RWA CA Block, Shalimar Bagh.*
- f. Municipal Corporation of Delhi assured that the municipal solid waste found dumped on the said site/drain, shall be removed by Municipal Corporation of Delhi and shall take proper care in future.*
- g. Haryana Government may be asked to resettlement of JJ Cluster as the JJC established on the bank of Western Yamuna Canal to save the canal.*

2. That this Hon'ble Tribunal while considering the aforesaid report of the Joint Committee on 02 November 2023 directed to implead State of Haryana through Chief Secretary, Secretary, Irrigation and Water Resources Department Govt. of Haryana and Member Secretary Haryana State Pollution Control Board. It was further directed the respondents No. 1 to 9 and 11 to 13 to submit their reply/response

within a month. The relevant portion of the order dated 02 November 2023 is reproduced below:-

*“1. Report of the Joint Committee was filed by the Mr. Satender Kumar, Sr. Environmental Engineer, DPCC email dated 13.09.2023.*

*2. In view of the averments made in the application and observations made in the report of the Joint Committee, presence of State of Haryana through Chief Secretary, Government of Haryana, Secretary, Irrigation and Water Resources Department, Government of Haryana and Member Secretary, HSPCB is considered to be necessary for just and proper adjudication of the questions involved in the case and accordingly they are impleaded as respondents no. 11 to 13.*

*3. The Registry is directed to amend memo of parties to the application and issue notices to respondents No. 1 to 9 and 11 to 13 requiring them to file their reply/response within one month at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF”.*

The next date of hearing has been fixed as 21 December 2023.

3. That the brief facts of the present case are that:-
  - (i) This Jhuggi Cluster is an encroachment falling on left bank of Delhi Sub Branch Canal from RD 59000 to 59300.
  - (ii) The efforts were made by the Irrigation & Water Resources Department, Haryana in the year 2009 for removal of this encroachment against which the residents filed a court case in

the Rohini Civil Court, Delhi vide S. No. 1038/2009. The Court of Ld. ASCJ Rohini vide interim order dated 15 December 2009 observed that the jurisdiction of this court is barred by Section 15 of the Public Premises Act and dismissed the interim injunction application (**Annexure-A**). The said Civil Suit was finally dismissed by the court vide order dated 10.09.2015 (**Annexure-B**). The operative part of the judgment is reproduced as under:

*“Neither plaintiff nor his counsel has appeared despite repeated calls since morning. In these circumstances, it appears that plaintiff is not interested in pursuing the present case. Hence, the present suit is dismissed in default”.*

- (iii) That after the aforesaid order dated 10 September 2015, the matter was taken up by the Irrigation Department with the Deputy Commissioner (North), GNCT of Delhi vide Executive Engineer, Delhi W/S Division, Delhi letter No. 5960-54/3-L dated 26 September 2016 for appointment of Duty Magistrate for vacation of encroached land of Irrigation & Water Resources Department, Haryana (**Annexure-C**). But no help was extended by GNCT of Delhi to Irrigation & Water Resources Department, Haryana and therefore encroachment could not be removed.
- (iv) That in response to the action initiated by Irrigation & Water Resources Department, Haryana; Chief Executive Officer, Delhi Urban Shelter Improvement Board (DUSIB) vide D.O. letter dated 28 September 2016 requested the Principal Secretary

Irrigation & Water Resources Department, Haryana to approach DUSIB to conduct the survey and identify the eligible JJ dwellers and refrain from taking any action against the JJ dwellers in contravention to the above said provisions of the policy framed under the law and various orders of Hon'ble Court **(Annexure-D)**.

4. That since, the Jhuggis Cluster comprises of residents of Delhi and can be rehabilitated by the GNCT of Delhi as the status of Government of Haryana being owner of land is just like a owner of private land. The land in question though is in the ownership of Haryana Government situated within the territory of Delhi, therefore, whatever the responsibility of Rehabilitation of Jhuggis dwellers is of Delhi Govt. and not of the State of Haryana. Hence, DUSIB needs to rehabilitate and relocate these Jhuggi dwellers being encroachers over the land of Haryana Government.
5. That it is further submitted that till the time these encroaches are rehabilitated and relocated by DUSIB, Irrigation & Water Resources Department, Haryana can consider request of DUSIB for grant of 'No Objection Certificate' for laying sewer lines as per Haryana Govt. Policy applicable in this regard.
6. That the State of Haryana crave in indulgence of this Hon'ble Tribunal for filing further reply/response at a later stage, if need be, or as directed by this Hon'ble Tribunal.

The above response in reply to the report submitted by the Joint Committee may kindly be taken on record in compliance of order dated 02 November 2023 passed by this Hon'ble Tribunal for the just and proper adjudication of the present matter.



Engineer-in- Chief  
Irrigation and Water Resources Department  
Haryana, Chandigarh

Dated: 20 December 2023

IN THE COURT OF SHRI AMIT KUMAR, JSCC/ASC/GJ(NW), ROHINI COURTS, DELHI

S-1038/09

CA Block Shiv Colony Jhuggi Jhopri Sudhar Sammittee  
Vs  
State Government of Haryana and Another

**ORDER**

1. Vide this order, I will dispose off the interim injunction application and the brief facts necessary for its disposal are that the plaintiff is a society consisting of the residents of CA Block Jhuggi Dwellers, Shalimar Bagh, Delhi and it is stated that about 500 families in their Jhuggies located on the bank of Delhi Sub-Branch, Canal, Village Haiderpur, Delhi are residing since 1990 which was allotted to them in 1990 by Shri V.P. Singh, the then Prime Minister of India and since then they have been provided all the essential amenities like electricity, water, road, sewerage by Delhi Government and they have also their election cards and ration cards, electricity meters etc. provided by the Government, but now the officials of defendant No.1 i.e. Government of Haryana, Irrigation and Flood Control Department wants to dispossess the members of the plaintiff society and as such they should be restrained from dispossessing them till alternate accommodation is provided to them. In the interim injunction application, it was prayed that they should be restrained from dispossessing the plaintiffs.
2. Notice was served upon the defendants and Ld. Counsel for defendant No.1 has stated that the residents of the plaintiff society are encroachers on the government land and notices have been issued to them by the Estate Officer under the Public Premises (Eviction of



Unauthorized Occupants) Act, 1971 which were duly served and thereafter, eviction order was passed against them and as such this court has no jurisdiction as per section 15 of Public Premises Act. He has not filed his WS for want of time, but has placed on record the photocopy of documents. Id. Counsel for the plaintiff has stated that plaintiff being in settled and uninterrupted possession since 1990 cannot be dispossessed without due process of law for which he has placed reliance upon the Judgments reported in *1975 RLR 42; 1971 RLR 2; 1972 RLR 542; 1971 RLR 127 & 1974 RLR 583*.

3. I have heard the submissions. Admittedly, none of the members of the plaintiff society has placed on record even a single document to show that they are the owners of the property which means that they are only encroachers on the Government land. Even as per the document placed on record by them i.e. a letter written by the plaintiff society to Shri Kapil Sibbal shows that they admit that this land belongs to Haryana Government. No document has been placed on record to show that they are the allottees of this land as alleged from Delhi Government or Central Government. Admittedly, the property falls within the definition of the public premises as per section 2 (e)(3)(iii) of Public Premises Act as per the documents placed on record by the defendant, eviction orders have already been passed under Public Premises Act after giving notices to the residents of CA Block Jhuggi Dwellers Society. Though there is no dispute to the Judgments relied upon by the counsel for the plaintiff, but this fact cannot be ignored that the plaintiffs are only encroachers and have no right, title or interest in the property. It has been held by the Hon'ble

ATTESTED



Punjab & Haryana High Court in the Judgment in the case titled as "*Jeet Singh Vs. Sardara Singh*" reported in *2000 (3) RCR 566* that a trespasser can protect the possession against the entire world except the true owner. Further, Hon'ble Delhi High Court in the Judgment reported in *AIR 1996 Delhi 1* has held that if a person asserts that he can be dispossessed only through court of law, he must show that he has right under law to remain in possession till his rights are determined by the court of law. In view of this Judgment, plaintiffs are merely encroachers or trespasser on the Government land and further, considering the fact that it is a public premises and the jurisdiction of this court is barred by section 15 of the Public Premises Act, I find no ground for interim injunction application made out in favour of the plaintiff. The interim injunction application is dismissed. Nothing stated herein above shall tantamount to expressing any opinion on the merits of the case.

Announced in the open Court  
on 15.12.2009

  
15/12/09  
(AMIT KUMAR)  
JSCC/ASCJ/GJ(NW)  
ROOM NO.217, ROHINI  
COURTS, DELHI

11

Annexure-B

S. No. 1038/09  
10.09.2015

Present: None for the plaintiff.

Counsel for defendant no. 1.

Previous cost of Rs. 1000/- paid by defendant no. 1 in terms of order dated 01.07.2015.

The case is passed over for appearance of plaintiff or his counsel to be taken up at 11:30 am.

(Naveen Gupta)

JSCC/ASCJ/GJ(NW):Rohini: Delhi/10.09.2015

File taken up again at 11:30 am.

Present: As before.

The case is again passed over to be taken up at 2:00 PM to enable the plaintiff or his counsel to appear.

(Naveen Gupta)

JSCC/ASCJ/GJ(NW):Rohini: Delhi/10.09.2015

File taken up again at 02:00 PM.

Present: As before.

It is already 3:45 PM.

Neither plaintiff nor his counsel has appeared despite repeated calls since morning. In these circumstances, it appears that plaintiff is not interested in pursuing the present case. Hence, the present suit is dismissed in default. **File be consigned to record room.**

(Naveen Gupta)

JSCC/ASCJ/GJ(NW):Rohini: Delhi/10.09.2015



No. 5960-64

12-L

Dated

26/11/2016

To

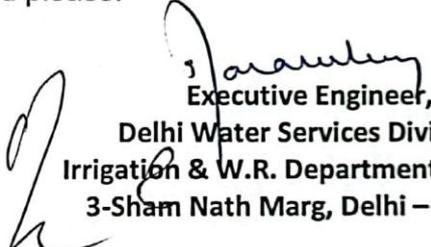
The Deputy Commissioner(North),  
Room No. 1, DM Office,  
Alipur, Delhi - 110036

**Subject:- Regarding removal of encroachment from CA Block Shalimar Bagh Delhi at RD 59000 to 59300 Delhi Sub Branch.**

It is brought to your kind notice that the Delhi Sub Branch RD 59000 to 59300 ~~are~~ falls in CA Block Shalimar Bagh Delhi. In the above said reach, the Haryana irrigation land has been encroached by the private person on the left bank of Delhi Sub Branch by putting Jhuggies. The case for eviction of Haryana Irrigation Department land has been decided by the Hon'ble Court on 15.12.2009 and further on 10.09.2015 copy of the Hon'ble Court orders are enclosed herewith. .

You are therefore requested to please appoint duty magistrate to get the land vacated by the unauthorized person by the police staff.

An early action is requested please.

  
Executive Engineer,  
Delhi Water Services Division,  
Irrigation & W.R. Department Haryana  
3-Sham Nath Marg, Delhi - 110054

No. 104

- CC:- 1 Chief Engineer/YWS(S) I&WR Deptt. Haryana, Delhi for information and necessary action please.
- 2 Superintending Engineer/YWS Circle, Delhi for information and necessary action please.
- 3 Deputy Commissioner of Police, Police Station, Ashok Vihar, New Delhi-110052. He is requested to provide sufficient police help to vacate the Haryana Irrigation land unauthorisedly occupied by the person of CA Block Shalimar Bagh Delhi on left bank of Delhi Sub Branch RD 59000 to 59300.
- 4 SDO, L&E Sub Division, Delhi for information and necessary action. He is directed to persue the matter at personal level.

V.K. Jain, IAS  
Chief Executive Officer



सत्यमेव जयते

DELHI URBAN SHELTER IMPROVEMENT BOARD  
दिल्ली शहरी आश्रय सुधार बोर्ड

Govt. of National Capital Territory of Delhi

राष्ट्रीय राजधानी क्षेत्र, दिल्ली सरकार

Delhi - 110 002

दिल्ली-110 002

D.O. No. PA/member (POWY) 16/ D-165

Dated 28-09-2016

*V. Suetan L11*

*Dear Sir*

It has been brought to notice of Hon'ble Chief Minister, Delhi by Ms. Bandana [redacted], Hon'ble MLA, Shalimar Bagh regarding the proposed demolition of jhuggies by the Irrigation and W.R. Department, Government of Haryana situated in C-A Block, Shalimar Bagh, Delhi. Some notices have been issued by the Sub Divisional Officer, Liaison & Estate Sub Division, Irrigation & W.R. Department, Haryana, 3-Sham Nath Marg, Civil Lines, Delhi-110054 directing the JJ Dwellers to vacate the unauthorized occupation within 7 days i.e. before 18.09.2016 otherwise unauthorized encroachment will be vacated by the department and expenditure will be recovered from the occupants.

In this regard, your attention is drawn towards the number of judgments of Hon'ble High Court of Delhi and the Hon'ble Supreme Court, wherein it was held that no demolition should take place without rehabilitating the eligible affected families. The observations made by the Hon'ble High Court of Delhi in WP(C) No. 8904/2009, titled 'SUDAMA SINGH & OTHERS Vs. GOVERNMENT & ANR. are reproduced below:-

**"BINDING NATURE OF MPD-2021**

The Master Plan of Delhi (MPD-2021) envisages rehabilitation or relocation of the existing squatter settlement/jhuggi dwellers. **It provides for relocation of the jhuggie dweller if the land on which their jhuggies exist is required for public purpose, in which case, the jhuggie dwellers should be relocated/re-settled and provided alternative accommodation.** It also provides that resettlement whether in form of in-situ up-gradation or relocation should be based mainly on built-up accommodation of around 25 sq. mtrs. with common facilities."

2. The provisions of the 'The National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 as amended in 2014 and the DUSIB Act, 2010 as interpreted by various Courts from time to time and read in letter and spirit mandate that no demolition of jhuggies should be undertaken by any land owning agency without rehabilitating the affected persons as per the rehabilitation policy.

3. Also in another order dated 22.12.2015 in WP(C) No. 11616/2015 titled "Ajay Maken Vs. Union of India & Ors.", the Division Bench of Hon'ble High Court of Delhi held that 'the Court is of the view that a protocol should be prepared by DUSIB, which is the nodal agency, entrusted with the statutory responsibility under the DUSIB Act, in consultation with all the land owning agencies and civil society organizations in the area

:2:

of housing rights (who would represent the interests of the *jhuggie* dwellers). It is essential that a uniform approach is adopted as regards all the *jhuggies* and JJ Basties in the NCT of Delhi. The protocol should list out the various stages, beginning with a comprehensive survey, the drawing up of list of persons eligible for the various proposed measures in terms of the scheme prepared under the DUSIB Act, the actual provision of the relief by way of in-situ upgradation or resettlement and rehabilitation measures as the case may be, the precautions to be taken in the event of removal and the measures to be taken post removal. This protocol shall be followed by all agencies including the Delhi Police in the event of any action for removal of JJ *Bastis* in the future.

4. Accordingly, after detailed discussion with all the stakeholders, the Delhi Slum & Rehabilitation and Relocation Policy-2015 and protocol have been formulated (copy enclosed as Annexure-1).

5. As per the provisions of this policy, JJ *bastis* which have come up before 01.01.2006 in Delhi and the JJ dwellers on such JJ *bastis* are eligible for rehabilitation if they are residing before the cut-off date of 01.01.2015. It is, therefore, requested that the land owning agency i.e. Irrigation & W.R. Department, Government of Haryana has to approach Delhi Urban Shelter Improvement Board to conduct the survey and identify the eligible JJ dwellers and refrain from taking any action against the JJ dwellers in contravention to the above said provisions of the policy framed under the law and various orders of Hon'ble Court.

*Regards*

Encl: As above

Yours sincerely,

*V.K. Jain*  
27/09/2016

(V.K. Jain)

Chief Executive Officer

Sh. Anurag Rastogi,  
Principal Secretary,  
Irrigation and W.R. Department,  
Government of Haryana,  
Room No. 622, 6<sup>th</sup> floor, Haryana new Secretariat, Sector-17,  
Chandigarh-160017