

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

IN

Original Application No. 914/2022

In the matter of:

Kamlesh Jonwal

..... Petitioner

Versus

Uday Punj & Ors.

..... Respondents

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DATED: 05-08-2024

FILED BY:

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Original Application No. 914/2022

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..... Petitioner

Versus

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REPLY ON BEHALF OF RESPONDENT NO. 1 TO THE STATUS REPORT CUM
AFFIDAVIT FILED BY RESPONDENT NO. 2/DDA DATED 31-07-2024

I, Uday Punj, S/o Late Sh. Satya Narain Prakash Punj, aged about 62 yrs., R/o Chimes, 55 Sultanpur Farms, New Delhi, do hereby solemnly affirm and state as under:

1. That I am Respondent No. 1 in the present petition and am well acquainted with the facts and circumstances of the present case and, as such, competent to make and affirm the present reply to the affidavit.
2. That, at the outset, it is respectfully submitted that the Response filed by R-2 is not only contrary to the facts placed on record and settled judicial precedents against R-2 and R-4 vide reply dated 06-02-2024 by the Answering Respondent but also is an effort to mislead this Hon'ble Tribunal and demonstrates a clear malafide intention and with an ulterior motive to create false record containing false statements intending that such circumstance, false statement that may appear in evidence. Thus, the Response filed is misconceived, its purpose is patently malafide, and the contents of statements made and ingredients are highly objectionable, contemptuous and unlawful. This aforesaid act amounts to a criminal act, entailing contempt of court and perjury.



3. Answering Respondent is reproducing the status of various orders passed by the Hon'ble Delhi High Court and Hon'ble Supreme Court with respect to the land, possession of which admittedly was never taken by any of the Respondents and ownership vests with Answering Respondent, through Reply dated 06-02-2024, for sake of brevity is reproducing hereunder the table of documents placed on record in support to its submissions and prove the falsehood being brazenly committed by Respondent No.1 and Respondent No.4 by placing fabricated documents on record, contrary to their own submissions before Hon'ble High Court of Delhi. The SLPs filed by Respondent No. 2 and GNCT of Delhi through the Land & Building Department were dismissed by the Hon'ble Supreme Court vide order dated 28.04.2016 and 08.12.2016, respectively. Further, the Hon'ble Supreme Court was pleased to dismiss the Review Petition as well as the Miscellaneous Application filed by Respondent No.1 vide order dated 31.03.2022 and 21.08.2023, respectively.

3.4. That, in view of all the documents placed on record by Answering Respondent, vide Reply dated 6th February 2024, the Response filed by Respondent No.2 is a willful, deliberate and malicious act committed solely for the purposes of committing the criminal offence of fabricating false documents and evidence, is substantiated by the following facts:

- (a) It was specifically and clearly pleaded in W.P. (C) No. 6390 of 2014 that possession of the abovementioned lands had never been taken by **Collector Land Acquisition, now represented by Respondent No. 4 in the present proceedings**, and remained with the Petitioner. In response, the Land Acquisition Collector, on oath, while filing a sworn counter affidavit, has specifically admitted that the possession of the subject land has not been taken. Paras 3, 10, and of the High Court's judgment dated 23.02.2015 (*at page no. (s) 358-368 of response dated 06-02-2024*) record as follows:



"3. In this case, it has been admitted by the concerned Land Acquisition Collector that physical possession of the subject land has not been taken. This is evident from the counter-affidavit filed on behalf of the concerned Land Acquisition Collector." (Page No. 359-360)

"10. As such, in the present case, neither physical possession of the subject land has been taken nor has any compensation been paid to the petitioner." (Page No.(s) 363-364)

"11. As a result, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared." (page no. 364)

(b) Respondent No. 2 challenged the said judgment by filing SLP (C) No. 32635 /2015 (at page no.(s) 374 - 386), but it did not challenge or question the aforesaid findings of the Hon'ble Delhi High Court as recorded in paragraphs 3 and 10 and reproduced above. The said findings were accepted by DDA, which challenged only the findings with regard to payment of compensation, contending that some alleged deposit of undisclosed compensation in the Treasury was sufficient compliance. Hence it is clear that the said findings on possession were final and binding against the Union of India and Delhi Administration due to not filing any SLP, and were equally final and binding against DDA on account of the fact that there was no challenge to the said findings in their entire SLP.

(c) However, since the said SLP (C) No. 32635/2015 was bunched along with scores of other SLP's filed by DDA for similar reliefs, the Hon'ble Supreme Court directed DDA to file an affidavit disclosing the cases where possession had been taken, those where possession could not be taken due to court stay orders, and those where possession was not taken even though there was no court intervention. DDA accordingly filed the said affidavit with detailed lists attached thereto.



(d) That, as per the Record of Proceedings dated 26th April 2016, Respondent No. 2 (at page no. (s) 715 -779) had filed an affidavit along with the said lists; in which it was disclosed on oath by Respondent No.2 that in respect of the subject lands concerned in SLP (C) No. 32635/2015 [converted to Civil Appeal No. 4590/2016], (at page no. 774) possession had not been taken. It is important to note that the Union of India through the Land Acquisition Collector, now impleaded as Respondent No. 4 in the present proceeding, through the District Magistrate, and the Delhi Administration through the Secretary, Land and Building Department, were parties to the said SLP/Civil Appeal.

(e) The Hon'ble Supreme Court thereafter heard SLP (C) No. 32635/2015 [Civil Appeal No. 4590/2016] (at page no. 374-386) along with a batch of matters falling in the category where possession had not been taken without the intervention of courts or any court stay orders and dismissed the entire batch of SLP/Civil Appeals filed by Respondent No. 2 by its Order dated 28.04.2016 (at page no(s) 387-395). It was categorically recorded in para 7 and 8 of the Supreme Court Order as follows:

"7. It is not in dispute that in all these cases, the land has not been taken possession of by the Collector within five years or more prior to 01.01.2014 when the 2013 Act came into force.

8. In that view of the matter, there is no merit in these appeals. The appeals are, accordingly, dismissed."

(f) That Hon'ble Supreme Court, while dismissing SLP (C) No. 36656/2016 [Civil Appeal No. 12113/2016] preferred by the Land & Building Department (at page no. (s) 396-408) now impleaded as Respondent No.4, once again upheld the common judgment of the Hon'ble High Court dated 23.02.2015, vide its judgment dated 08.12.2016 (at page no. (s) 409-411). The Order of the Supreme

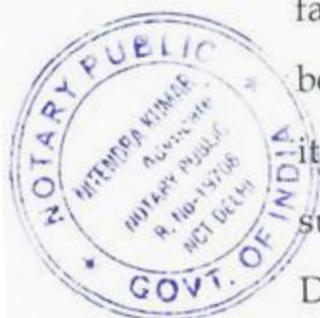


Court in "Govt. of NCT of Delhi through Secretary, Land and Building Department v. Govind Ram & Anr.", along with a batch of matters that included C.A. No. 12113/2016 @ SLP(C) No. 36656/2016, to the extent relevant (*at page no. 410*), reads as follows:

3. *It is brought to our notice that the appeals on identical issues, filed by the Delhi Development Authority have already been dismissed by this Court. Therefore, reserving the liberty for fresh acquisition within a period of one year granted in the said appeals, these appeals are also dismissed."*

(g) That, Govt. of NCT of Delhi through the Secretary, Land and Building Department now represented by the Respondent No. 4, had accepted the order passed by the Hon'ble Supreme Court and did not file any review or further proceeding, and therefore the Judgment and Order of the High Court dated 28.02.2015 has attained finality and is binding on Respondent No.4. Hence Respondent No.4 cannot take shelter while file reply that Respondent No.2 had taken possession.

(h) That, Respondent No. 2, after a Constitution Bench of the Hon'ble Supreme Court in "Indore Development Authority v/s Manohar Lal" reversed the judgment of a learned 3-Judges Bench which had held the field till 2020, Respondent No.2 filed a belated petition for Review of the Order dated 28.04.2016 (*at page no. (s) 413 - 427*). At this belated stage, almost five years after its Civil Appeals were dismissed after taking into account the Affidavit filed with the Record of Proceedings of 26.04.2016, Respondent No.2 tried to falsely contend in its review petition that possession had, in fact, been taken and that therefore the Supreme Court ought to review its Order. However, the Hon'ble Supreme Court rejected this submission and was pleased to Dismiss the Review Petition (C) Diary no. 27968 of 2021 in Civil Appeal No. 4590 of 2016, preferred



by DDA vide its Order dated 31.03.2022, (at page no.(s) 428-429) the relevant portion of which is set out below:

(i). *The present petitions have been filed by the petitioner seeking review of order dated 28.04.2016 whereby this Court dismissed the civil appeals filed by the petitioner herein."*

(ii). *Having carefully gone through the petitions for review and the papers connected therewith, we do not find any ground warranting review of order dated 28.04.2016.*

(iii). *The review petitions are, therefore, dismissed on the ground of delay as well as on merits."*

- (i) That, not content with even this Order, Respondent No. 2 once again tried its luck in the Hon'ble Supreme Court by filing a Miscellaneous Application praying for recall of the Order dated 31.03.2022 and for clarification/modification of the Order dated 31.03.2022 as well as the original Order dated 28.04.2016 dismissing the Civil Appeal (at page no. (s) 430-446). It was falsely claimed in this Application also, just as it was done in the Review Petition, that Respondent No.2 had legally taken possession of the subject lands. However, these contentions were yet again rejected when the Hon'ble Supreme Court by its Order dated 21.08.2023 (at page no. 447) was once again was pleased to dismiss the Miscellaneous Application bearing Diary No. 4543/2023 against Order dated 31.03.2022 passed in the Review Petition (Civil) Diary no. 27968 of 2021 in Civil Appeal No. 4590 of 2016. The Order dated 21.08.2023, to the extent necessary, reads as follows:

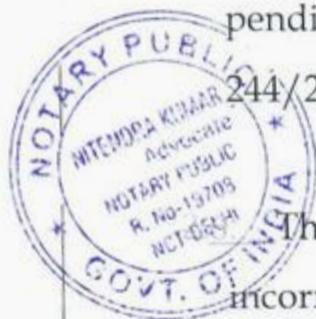
"2.The review which was filed by the Delhi Development Authority against the dismissal of the Civil Appeal on 28 April 2016 suffered from a delay of 1386 days. The review was dismissed on 31 March 2022 by this Court both on the grounds of delay as well as on merits.

3. In this backdrop, the Miscellaneous Application is misconceived and is accordingly dismissed.



PARAWISE RESPONSE

1. The contents of Para 1 are denied for want of knowledge.
2. The contents of para 2 are contrary to the settled legal position against Respondent No. 1 and are a deliberate attempt to mislead this Hon'ble Tribunal and to create a false record containing false statements intending that such circumstances may appear in evidence. This statement is not only misconceived; its purpose is patently malafide, and the ingredients are highly objectionable, contemptuous and unlawful.
3. The contents of paras 3 are a matter of record and do not merit any reply.
4. The contents of paras 4 are a matter of record and do not merit any reply.
5. The contents of para 5 are incorrect, misleading, and are vehemently denied. Once Respondent No.2 has admitted before the Hon'ble Supreme Court, in view of the fact of having filed a list of cases in which possession was not taken, starting from page no. 773, the answering respondent's name appears on serial number 54 on page number 774; all construction or development of green belt by Respondent No.2 on land owned by Respondent No.1 is illegal without the authority of law on private property owned by the answering respondent. Further, the issue of the auction of the DDA commercial complex and allotment of land for the Police Station is the subject matter of ongoing litigation pending before the Hon'ble High Court of Delhi in CS(OS) 244/2020 filed by the answering respondent.
6. The contents of para 6 are vehemently denied being factually incorrect, false, concocted, fabricated and misleading in view of specific admission in the Counter Affidavit filed by Additional District Magistrate - cum - Land Acquisition Collector in Writ



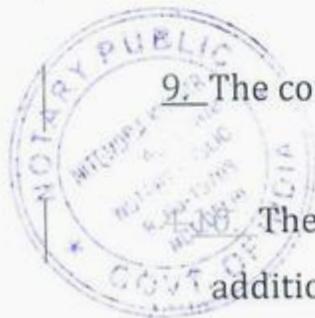
Petition 6390/2014 in 5, admitting that the possession was not taken (Refer page no. 367 of Reply dated 06-02-2024 filed by answering Respondent No. -1).

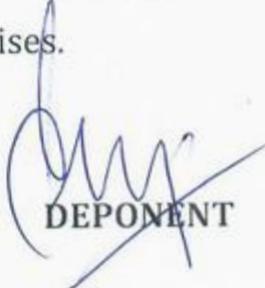
3.7. The contents of para are contrary to the facts placed on record by Respondent No.2 and Respondent 4 before the Hon'ble High Court of Delhi and the Hon'ble Supreme Court. Therefore, at the cost of repetition, it is reiterated that the statements made are untrue and false, and records have been fabricated to build up a new case. Respondent No.2 has illegally constructed a Road on 9,360 sq meters and Pump house and UGR in an area of 630 sq meters on land owned by Answering Respondent.

8. The contents of para 8 demonstrate scant respect to judicial discipline and malafide disobedience of settled judicial precedents by Respondent No. 2, particularly in view of the admitted fact that without taking possession of land, still on 31-05-2016, it handed over 2 patches, one each on either side of the road (entry point of Kaveri Apartment) to MCD for maintain Green Belt. This act of Respondent 2 is contemptuous, gross misconduct and is in disobedience of orders passed by the Hon'ble Supreme Court on a prior date of 28-04-2016 dismissing the SLP filed by it. Respondent No.2 could not have handed over both the patches of land owned by the answering respondent when, admittedly, it made a categorical statement on 26-04-2016 before the Hon'ble Supreme Court that it had not taken possession.

9. The contents of para 9 are denied for want of knowledge.

The Respondent No. 1 craves leave of this Hon'ble Tribunal to file additional submissions/documents in case the need arises.




DEPONENT

6 AUG 2024

Verification: Verified at New Delhi on this the _____ day of _____ 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and no part of it is false, and nothing material has been concealed therefrom.

[Signature]
DEPONENT

6 AUG 2024



I Identified the deponent who has signed in my presence

CERTIFIED THAT DEPONENT

Sh./Ms.....Age.....
 S/o, W/o, D/o *Vatay Pring*
 R/o.....
 Identification *Sa Singh Chauhan*
 has.....
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 cons.....
 & ext.....
 Resided at.....

[Signature]
 NITENDRA KUMAR, NOTARY PUBLIC
 Govt. of India, DELHI

Re: Advance Service in O.A 914/2022

Madhumita Singh <madhumita@casassociates.in>

Tue 8/6/2024 3:01 PM

To: Kritika Gupta <kritika0504@gmail.com>; kjonwal@yahoo.com <kjonwal@yahoo.com>; jyoti.legal@gmail.com <jyoti.legal@gmail.com>; pujakalra09@gmail.com <pujakalra09@gmail.com>

1 attachments (5 MB)

Reply By R-1 to the stauts report by R-2 (DDA).pdf;

Dear All,
Good afternoon!

PFA the Reply filed by Respondent No. 1 to the Status Report filed by Respondent No. 2 in O.A 914/2022.

Regards,

Madhumita Singh (Advocate)

Senior Associate Advisory & Litigation

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