

BEFORE LAHORE DEVELOPMENT AUTHORITY COMMISSION,
LAHORE

PRESENT:

Mr. Javaid Akhtar, Chairman

Mr. Muhammad Yousaf, Member

Reference No. 127/2018

Mst. Tasneem Janat w/o Sheikh Khalid Mahmood R/o House No. 648
Block P, MA Johar Town Lahore.

Applicant

Vs.

1. Lahore Development Authority through Director General, 467/D-II,
Main Boulevard, M.A. Johar Town, Lahore.
2. Director, Land Development-I, 467/D-II, Main Boulevard, M.A.
Johar Town, Lahore.

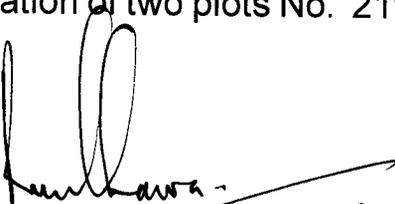
Respondents

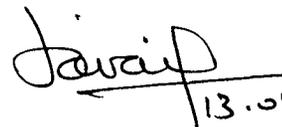
Order

Mst. Tasneem Janat w/o Sheikh Khalid Mahmood submitted an application at One Window on 26.01.2018 vide receipt No. 2517622 for filing reference to the LDA Commission. The Authorized Officer under sub-section (4) of section 32 of LDA (Amendment) Act, 2013 read with sub-rule (1) of the Rule 7 of the Lahore Development Authority Commission Rules, 2014, referred the case to the Commission which was received on 11.06.2018. It was entered in the Institution Register at Serial No. 127/2018. The file No. JT/NBI/410 attached with the reference was examined and notices were issued to the Applicant, Director General LDA, Director Law LDA and Director Land Development-I.

2. According to the reference filed by the LDA;

"Brief facts of the case are that one, Mst. Masooda Akhtar W/o Muhammad Hanif vide application dated 20.10.1984 (page 000001/C) claimed ownership of land measuring 1-kanal 13-marla comprising khasras No. 11493, 11594, 11613 etc. Mouza Niaz Baig and requested for grant of exemption in M.A. Johar Town Scheme. The Land Acquisition Collector, LDA certified her ownership as comprising khasra No. 11493, 11594 with reference to Award Part-B Sr # 794-798 Part-C # 2952 (copy of award page 000033/C). In lieu of same land she procured exemption/ allocation of two plots No. 219, Block-J (measuring 105.00 Sqm) and 744,


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Block-L (measuring 74.00 Sqm), in M. A. Johar Town Scheme. (**allocation slip page 000013/N**). The titled case pertains to plot No. 219, Block-J, M.A. Johar Town Scheme. Following ownership letters of said plot No. 219, Block-J are placed on record file:-

1. Allocation letter No. JT-NB-II-410/29335 dated 07.10.1999 (**page 000039/C**).
2. Exemption Letter No. JT-NB-II-410/1021 dated 26.04.2003 (**page 000063/C**).
3. Possession order No. JT-NB-II-410/2220 dated 29.04.2003 (**page 000081/C**).
4. Letter No. 2163 dated 7.5.2003 issued by Estate Branch, LDA whereby physical possession of plot No. 219, Block-J, M.A. Johar Town Scheme was delivered to the exemptee through Muhammad Hanif General Power of Attorney (**page 000085/C**)

Mst. Masooda Akhtar Mirza D/o Muhammad Saddique executed General Power of Attorney for her land measuring 1-kanal 13-marla comprising khasras No. 11493, 11594, 11613 etc. Mouza Niaz Baig Destaviz No. 2542, Bahi No. 4, Jild No. 649 dated 18.06.1998 registered with Sub-Registrar Saddar, Lahore in favour of Sahibzada Muhammad Tahir Mubeen S/o Zahoor-ud-Din (**page 000051/C**).

Later on, plot No. 219, Block-J, M. A. Johar Town was transferred further as under:-

| S# | Name of (Transferor) | Name of (Transferee) | Transfer letter |
|----|--|--|---|
| 1 | Masooda Akhtar through her General Power of Attorney Sahabzada Muhammad Tahir Mubeen S/o Zahoor-ud-Din | Mst. Tasneem Janat W/o Sheikh Khalid Mehmood | No. JT-NB-II-410/ 1323 dated 12.07.2003 (page 0000143/C). Transfer fee verified by Directorate of Revenue, LDA. |

During processing of the file the Land Acquisition Collector, LDA at para No. 113/N dated 14.03.2005 and 161/N dated 20.2.2018 reported that as per record award Part-B Sr. No. 796, 792 the award of Mst. Masooda Akhtar D/o Muhammad Saddique has been cancelled by the order of Collector dated 29.11.1999 passed in compliance of order of


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Commissioner dated 19.10.1999. Presently Mst. Masooda Akhtar is no more awardee in LAC award.

In light of above report of LAC, LDA the office cancelled plots No. 219, Block J and 744, Block-L, M.A. Johar Town Scheme from the name of transferee Mst. Tasneem Janat W/o Sh. Khalid Mahmood etc. vide letter No. JT-NB-II-410+A/4824 dated 20.07.2009 (**page 000161/C**).

Feeling aggrieved Mst. Tasneem Janat filed a civil suit titled "Mst. Tasneem Janat Vs. LDA" for declaration with consequential relief and permanent injunction. The court of Malik Naeem Shaukat, Civil Judge, 1st Class, Lahore decreed the suit of the plaintiff as prayed for vide order dated 04.07.2012 (**photocopy of the court order is page 249 to 259/C**). She vide her application dated 14.3.2013 requested for restoration of plot No. 219, Block-J, Johar Town in her name on the basis of said order of civil court.

Mst. Tasneem Jannat/transferee claims herself to be a bona fide purchaser of plot No. 219, Block-J, M.A. Johar Town and she vide her application OWO No. 2517622 dated 26.01.2018 has applied for submission of her case to LDA Commission for Bona Fide Purchasers for decision. The following are reports sought from concerned offices of LDA.

- i) The Land Acquisition Collector, LDA at para No. 113/N dated 14.03.2005 and 161/N reported that as per record award Part-B Sr. No. 796, 792 the award of Mst. Masooda Akhtar D/o Muhammad Saddique has been cancelled by the order of Collector dated 29.11.1999 passed in compliance of order of Commissioner dated 19.10.1999. Presently Mst. Masooda Akhtar is no more awardee in his award.
- ii) The Revenue Staff, DLD-I at para No. 172/N has reported that as per khasra war register file No. JT-NB-II-410 stand constructed in the name of Mst. Masooda Akhtar D/o Muhammad Saddique for land measuring 2-kanal 6-marla comprising khasra No. 11594, 11493 and has been passed. No other file in the name of said lady is constructed in said khasra numbers.
- iii). At para No. 168-169, 174/N the Directorate of Revenue, LDA has verified payment of amounts of development charges against khasra No. 11493, Mouza Niaz Baig and plot No. 219, Block-J, M.A. Johar Town Scheme. The said office has also verified the payment of transferee fee deposited by one, Imtiaz Ahmed.
- iv) The status of plot No. 219, Block-J, M.A Johar Town in possession register and at site was sought from Senior Estate Officer, LDA.


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SEO, LDA has reported at para 164 to 165/N that there exists an entry in Qabza Register regarding delivery of physical possession of plot to Mst. Masooda Akhtar W/o Muhammad Hanif through Sahibzada Muhammad Tahir Mubeen through SPA Muhammad Ramzan and at site a double storey house has been constructed on plot No. 219, Block-J, M.A. Johar Town Scheme.

- v). Town Planning Wing, LDA at para No. 167/N has reported that Building file of plot No. 219, Block-J, M. A. Johar Town sanctioned in the name of Mst. Tasneem Janat and completion certificate was issued on 26.04.2004.
- vi). Inventory of record files of M. A. Johar Town scheme was prepared in 2008. File No. JT-NB-II-410 is neither entered in list of available files nor in the list of missing files published in the newspaper in 2009.
- vii). Personal appearance of the applicant Mst. Tasneem Janat W/o Sh. Mhalid Mehmood along with original ownership documents has been recorded at para No. 171/N.

3. The Applicant appeared on 27.06.2018 and recorded her statement. She contended that she purchased the plot No. 219 Block J, Johar Town through a property dealer Tarar Associates from Sheik Manzoor against a sum of Rs. 1,30,000/- She produced the original of agreement to sell. The amount was paid in the presence of witnesses. When the plot was cancelled she filed a civil suit which was decided in her favour. The Applicant produced certified copies of the order of the Malik Naeem Shaukat Civil Judge Lahore dated 04.07.2012 and the order of Mr. Muhammad Latif Additional District Judge Lahore passed on 12.01.2015 in appeal against the order of the Civil Judge. Later she produced a copy of the order of the Lahore High Court dated 06.07.2018 whereby the honorable High Court Judge Mr. Amin-ud-din Khan has adjourned the Civil Revision No. C.R. No. 1021 of 2016 filed by LDA adjourned to 13.11.2018 for preliminary hearing. Hence the Civil Revision filed by LDA has not been admitted for hearing.

4. The perusal of the orders of the Civil Court shows that it has decided the first issue in favour of the Plaintiff (the Applicant in the present reference) whether she was a bona fide purchaser. The court has also observed that the order of the Commissioner dated 19.10.1999 which was the basis of cancellation of plot was not produced during the trial. The Court passed a decree in favour of the Applicant on 04.07.2012. The Appeal filed by LDA was also dismissed by the Additional District Judge and in his order he observed that Zafar Din Assistant Director LDA as DW.I admitted that the

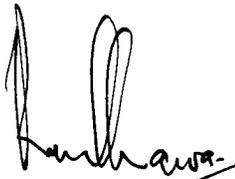

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Zafar
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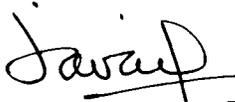
Applicant is bonafide purchaser. The court further observed that nothing has been stated by either of two witnesses examined on behalf of the Appellant (LDA) that the Applicant was aware of the defective title of original vendor/exemptee or cancellation order. The two witnesses also did not state that the vendor/exemptee committed any fraud while obtaining the allocation of two plots in her favour (the original exemptee) or anything wrong has been committed by the present respondent (The Applicant in the Reference). The Appellate Court also observed the following:

“In such circumstances it can safely be concluded that the present respondent is bonafide purchaser from the original exemptee and the vested rights already created in favour of the respondent cannot be taken away by the appellant especially when she fulfilled all legal and codal formalities before the purchased of the plot”

5. Since the courts of law have decided the issue of bonafide purchaser in favor of the Applicant, this Commission cannot pass any comments or orders. After the decision of the courts LDA was bound to implement the orders of the courts and allow the Applicant to retain the plot No. 219 Block J, MA Johar Town Lahore when there was no stay order in favour of LDA. This Commission therefore recommend that the Appellant be allowed to retain the plot in view of orders of the civil court and the Appellate Court. The cancellation of exemption with regard to Plot No. 219 Block J, MA Johar Town will be withdrawn subject to orders of any court. She will have all the rights of exemptees as per law, rules and instructions of LDA. She can also transfer the plot to any person provided that new intended transferee will be informed by LDA about the pendency of the civil revision in the Lahore High Court.


(Muhammad Yousaf) 13.08.2018

Member, LDAC


(Javaid Akhtar) 13.08.2018

Chairman, LDAC

Announced

13.08.2018