

UNREPORTED

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 69/2008

% Date of Decision: 15th February, 2008

SHRI RAM PRAKASH Appellant
Through: Mr. N.S. Dalal, Advocate

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. Sanjay Poddar, Standing
Counsel (LA)
Ms. Nidhi Minocha, Advocate for
Ms. Suparna Srivastava, Standing
Counsel for MCD

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

% **15.02.2008**

: **DR. MUKUNDAKAM SHARMA, CJ. (ORAL)**

1. The present appeal is filed against the order dated 20.12.2007 passed by the learned Single Judge dismissing the writ petition filed.
2. The appellant filed the writ petition contending, inter alia, and admitting the position that large chunk of land including the land standing in the name of predecessors in interest of the appellant was required by the State Government. It is also an admitted

position that the total area of Khasra No.30/8/2 measuring 2 bighas 9 biswas was also a part of the said land which was acquired under notification issued by the respondents. However, possession of the said land was taken in respect of only 2 bighas 6 biswas which is indicated from the possession proceedings dated 13th July, 1978. The appellant, however, in the writ petition restricts his complaint in respect of the remaining 3 biswas of land contending, inter alia, that the appellant had a built up property there and the said land could not have been taken possession of. It appears from the records that the appellant had already filed another writ petition registered as W.P.(C) No.5517/1993 assailing the acquisition and seeking quashing of the award. In that writ petition, order of status quo was passed.

3. Counsel appearing for the respondents states that no description of the aforesaid 3 biswas of land was submitted by the appellant in the present proceedings and that the petition is vague and that a suit is also filed for payment of damages which cannot be determined in a writ petition of this nature. The learned Single Judge held that possession is taken pursuant to an award which has been passed in exercise of the powers under Land Acquisition Act and, therefore, there is no merit in the writ petition. Admittedly also, possession has already been taken over from the appellant in respect of the aforesaid land and the property standing thereon has been demolished as stated by the appellant. What is sought to by this writ petition is restoration of possession and payment of

damages. So far as payment of damages are concerned, it cannot be ascertained and determined in a writ petition of this nature for which, in our considered opinion, a proper suit may have to be filed claiming such damages, if not already filed. So far as the issue of restoration of possession is concerned, the appellant has already filed a writ petition assailing the acquisition.

4. Counsel appearing for the respondents has rightly pointed out that if the appellant has any grievance in respect of the possession, the same can also be subject matter of the aforesaid writ petition. We find force in the submission of the counsel appearing for the respondents.

5. We accordingly dismiss this writ petition with an observation that if in the pending writ petition any such grievance is raised, the same shall be considered.

CHIEF JUSTICE

REVA KHETRAPAL, J

FEBRUARY 15, 2008
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