

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

+ W.P.(C) 22140/2005

ASHOK KUMAR

..... Petitioner

Through : Mr. Mayank Yadav, Advocate

versus

D.D.A. & ORS.

..... Respondents

Through : Mr. Rajiv Bansal, Advocate for DDA

Mr. Darpan Wadhwa, Advocate for respondents no.2 and 3

Mr. Sanjay Poddar, for respondent no.7

Mr. Devendra Nautiyal, Advocate for MCD/respondent no.6

Mr. Abhilash Mathur, Advocate for respondent no.5

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 20.02.2008

1. The petitioner claims that he is the owner of 1 bigha, 16 biswas of land in village Saleempur Majra, Madipur located in Khasra no.561/421. In this regard the petitioner relies upon entries in the Khatauni for the year 1972-73, the order passed by SDM (PB), Delhi dated 14/5/1992 and the order passed by the Revenue Assistant dated 18/1/1993.

2. By a notification dated 5th September, 2003, 1,382 sq.mts of land in khasra no.561/421 min was acquired by making a declaration under section 6 of the Land Acquisition Act, 1894. There is a possession report dated 16/4/2004. Subsequently, it transpires that the land in question was denotified by notification dated 24/6/2005 under section 48 of the Land Acquisition Act, 1894 stating that the entire 1382 sq.mts of land stands denotified.
3. The petitioner Mr. Ashok Kumar has filed a present writ petition through his attorney alleging that he was owner of the land measuring 1382 sq.mts forming part of khasra no.561/421 situated in village Saleempur Majra, Madipur and after denotification possession of the said land has not been handed over back to him.
4. This Court by vide order dated 20th December, 2005 had directed Divisional Commissioner, Government of NCT, Delhi to carry out demarcation of the area by Total Station Method. It was noticed that the earlier demarcation report cannot be accepted. The demarcation was to be done also in accordance with the directions given in the earlier order dated 2/12/2005.
5. The demarcation report has been filed in terms of the said order dated 20/12/2005. It is sated that Total Station Method was deployed in

addition to manual measurement. The conclusions of the report are as under :

“Khasra no.561/421 admeasuring 9 bighas 8 biswas consists of two parts. One is of 7 bighas 12 biswas which was acquired for the Railways and as on today most of this land is inside the Railway boundary and some portion of it has been transferred to PWD for utilization in road no.43. Remaining portion of this khasra is bighas 16 biswas and is heavily built up and privately owned land. In khasra no.561/421 in revenue estate Saleempur, Majra, Madipur there are about 20 heavy built up houses. This khasra no. is not acquired land and is privately owned land. The detailed list of the persons who have constructed their houses and are residing in the remaining portion of khasra no.561/421 (1 bigha 16 biswas) is given at Annexure R-4.”

6. As per the above report 1 bigha and 16 biswas is heavily built upon and is privately owned land. People who are in occupation of the said land is also indicated.
7. The petitioner disputes the said demarcation report, which was filed in this court on 30th January, 2006. He has also filed objections to the demarcation report in this Court.
8. Under the provisions of the Delhi Land Revenue Act, 1964 and the Delhi Land Revenue Rules, 1962 any dispute pertaining to demarcation and the demarcation report can be made subject matter of an appeal/review. In the present case as demarcation has been done under the personal supervision of Deputy Commissioner (West), an appeal or revision will lie to the Financial Commissioner. The petitioner therefore has an

alternative remedy to challenge the demarcation report by filing an appeal/revision before the Financial Commissioner who can go into all relevant aspects including the objections raised by the petitioner to the demarcation report. The petitioner will also be at liberty to rely upon the possession report dated 18/4/2004 which states that the construction on khasra no.561/421 min measuring 1382 sq.mts was demolished. The petitioner can also rely upon the notice under section 9 of the Land Acquisition Act dated 7/4/2004 wherein the name of Mr. Ramesh Chand Agarwal is mentioned. The respondents can also file documents in support of their claim. The evidenciary value and effect of the documents will be examined by the Financial Commissioner. These are all aspects, which the Financial Commissioner will have to examine and go into while examining the demarcation report. It is also clarified that observations of this court will not be binding on Commissioner who will examine claims of the parties on merits. In case the petitioner is aggrieved by the order of the Financial Commissioner he will be at liberty to challenge the same in accordance with law.

9. The petitioner has been bona fidely pursuing these proceedings and has also filed objections to demarcation report in this court. The objections were taken on record and being examined. It is therefore,

observed that the petitioner will be entitled to benefit under section 14 of the Limitation Act, 1963.

The writ petition is accordingly disposed of.

SANJIV KHANNA,J

FEBRUARY 20, 2008

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