

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

%

Judgment reserved on: 17th August, 2015
Judgment delivered on: 01st September, 2015

+

WP(C) No. 7093/2014

ROHTASH SINGH

..... Petitioner

versus

GOVERNMENT OF NCT OF DELHI & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner

: Mr L.S. Solanki, Advocate.

For the Respondents

: Mr Dhanesh Relan, Advocate for DDA

Mr Yeeshu Jain & Ms. Jyoti Tyagi, Advocates
for L&B/LAC

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGEMENT

SANJEEV SACHDEVA, J

1. The petitioner has filed the present petition seeking a declaration that the acquisition proceedings in respect of the land Admeasuring 900 sq.yards out of Khasra No.1 etc./99 (3-13) now known as Property No.C-115, Gali No.4, Shastri Park, Delhi-110053 in Village Ghonda Chauhan Khadar,

Delhi-110053 has lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the Act”).

2. The contention of the petitioner is that the petitioner is the owner of the said piece of land having purchased the same from its earlier owners. It is contended that the petitioner has raised a nursery/garden at the said premises. It is contended that the petitioner continues to be in physical possession of the land. However, in the year 2013, the respondent through its officials and employees threatened to dispossess the petitioner. The petitioner made an RTI enquiry in response to which it was contended that the physical possession of the subject land was taken over by the land acquiring authorities and handed over to PWD for construction of a road on 16.08.1983. It is contended that the petitioner purchased the subject land by a registered sale deed dated 26th December, 2013. In support of his contention that he is owner of the property, the petitioner has placed on record irrevocable general power of attorney, ‘deed of will’ and possession letter dated 04.01.2006 and sale deed dated 26.12.2013 executed on the basis of the power of attorney and rectification deed dated 28.06.2014.

3. The respondent/LAC has filed a short counter affidavit contending that the recorded owner of the subject land was one Sh. Umrao Singh S/o Dharam Singh whereas the documents of title filed by the petitioner are from

Mumtaz Ahmed and Ruksana Begum and it is not shown as to how the said Mumtaz Ahmed and Ruksana Begum are concerned with the subject land and entitled to execute the power of attorney etc. It is contended that the Land Acquisition Collector took physical possession of the land on 27.06.1969 and handed over the same to the requisitioning agency and due compensation was also paid to its recorded owner namely; Shri Umrao Singh and as the compensation was paid to the recorded owner and possession was taken way back in 1969, the acquisition proceedings stood completed and the subsequent purchase by the petitioner would be of no consequence.

4. The respondent/DDA has filed its counter affidavit contending that the subject land was transferred to PWD (Road) on 16.08.1983 for the purposes of construction of a road and the work of road has already been completed by the PWD and the subject land has been bounded with the boundary wall of the DDA and the petitioner had sought to grab the land of the respondents. It is contended that the plea of the petitioner that he has raised a nursery/garden on the subject land is sham, bogus and frivolous, and it is contended that there is no garden/nursery existing on the subject land and the subject land is enclosed within the boundary wall of DDA. It is contended that the acquisition proceedings of the subject land have become final, binding and conclusive and cannot now be reopened.

5. The sum and substance of the case of the petitioner is that the petitioner is owner of the property by virtue of the documents, which have been placed on record dated 04.01.2006 and 26.12.2013, and the petitioner is in physical possession of the said land and is running a nursery there from.

6. The stand of the respondents is that the subject land was acquired by a notification of 1969 and possession was also taken of the subject land in 1969 and was transferred to PWD (Road) in the year 1983 for the purposes of construction of a road and thereafter road work has been carried out and today the premises is enclosed within a boundary wall of DDA and there is no nursery on the subject land and that the petitioner had sought to encroach upon the said land.

7. The petitioner in support of the contention that the petitioner is in possession of the said land has filed photographs of the subject land. The photographs are at pages 96 and 97 of the petition. Perusal of the photographs establishes beyond any doubt that there is no nursery or garden on the subject land. On the contrary, there is some construction work on the subject land as steel girders are seen protruding from beneath the surface from a part of the subject land establishing that there is some sort of construction activity carried out on the subject land. The said subject land is also enclosed within a boundary wall. The photographs show that in some portion of the land, there is some building material lying. It is the contention

of the counsel for the petitioner that the said building material has been placed on the subject land by some third parties, which also goes to show that the petitioner is not in possession.

8. A perusal of the photographs clearly establishes that there is no nursery on the subject land as claimed by the petitioner. There is a boundary wall and some form of construction on the subject land. The photographs clearly establish that the petitioner is not in possession of the subject land. Furthermore, the petitioner has not been able to show as to how the petitioner derives title on the basis of the documents filed by the petitioner because as per the respondents it is one Umrao Singh s/o Dharam Singh, who is the recorded owner of the subject land whereas the documents filed by the petitioner have been executed by Sh. Mumtaz Ahmed and Smt. Ruksana Begum, who in the document claim to derive title from Om Singh Tomar s/o late Sh. Nathu Singh. The respondents have further contended that the compensation for the subject land also stands paid to the recorded owner, Shri Umrao Singh.

9. The above facts clearly established that the acquisition proceedings in respect of the subject land already stand concluded by the taking over of physical possession and payment of compensation. The subject land has also been put to use by the respondents for construction of a road. The petitioner has clearly mis-stated the facts and has not come to the court with

clean hands. The petitioner is not entitled to the benefit of Section 24(2) of the Act.

10. In view of the above, we find no merit in the writ petition. The same is accordingly dismissed with costs quantified at Rs. 10,000/-.

SANJEEV SACHDEVA, J

BADAR DURREZ AHMED, J

September 01, 2015
sk

