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

+ W.P.(C) 444/2013

SURAT SINGH

..... Petitioner

Through

Mr Y.R.Sharma, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through

Mr Sanjay Kumar Pathak and Mrs  
Kaomuji Kiran Pathak and Mr Sunil  
Kumar Jha, Advs. for  
LAC/L&B/GNCTD.  
Mr Ajay Verma, Adv. for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR. JUSTICE ASHUTOSH KUMAR**

**ORDER**

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**03.01.2017**

This writ petition seeks quashing of the Notification No.F10(7)/08/L&B/LA7404 dated 27.07.2012 issued under Section 4 and Section 17 of the Land Acquisition Act, 1894 in respect of, inter alia, the petitioner's land comprised in Khasra No.15/22 measuring 4 bighas 4 biswas in village Dhool Siras now part of Sector 24 Dwarka Phase II, Delhi. We are now informed that in the meanwhile Section 6 declaration was also issued on 23.07.2013.

Mr Pathak fairly states that this matter is entirely covered by our decision in Neena Mohini Williams & Anr vs. Govt. of NCT of Delhi & Ors. and another set of writ petitions decided together which is reported in **220 (2015) DLT 141 (DB)**. Those matters also pertained to the very same notification. Paragraphs 9, 10, 11 & 12 of the said decision in Neena Mohini Williams (Supra) are set out herein below:-

“9. From the above decision, it is abundantly clear that the exercise of power by the Government under Section 17(1) does not necessarily result in exclusion of Section 5A of the said Act in terms of which any person interested in land can file objections and is entitled to be heard in support of his objection. It is also clear that the use of the word “may” in Section 17(4) makes it clear that it merely enables the Government to direct that the provisions of Section 5A would not apply to the cases covered under sub-section (1) or (2) of Section 17. It has been made clear that the invoking of Section 17(4) is not a necessary concomitant of the exercise of power under Section 17(1). In the present case, we find that the Lieutenant Governor’s Note, which has been extracted above, has not specifically dealt with the provisions of Section 17(4). The Note does not at all indicate that the Lieutenant Governor had applied his mind to the provisions of Section 17(4) of the said Act and as to whether the provisions of Section 5A ought to be excluded from the present acquisition. The statement in the Section 4 Notification to the effect that the Lieutenant Governor has been “pleased under sub-section 4 of the said section to direct that all the provisions of Section 5A shall not apply”, is not correct. This is not borne out from the decision of the Lieutenant Governor which we have extracted above. There is no specific direction in the said Note that Section 17(4) has been invoked and/or that the provisions of Section 5A are not to apply to the present acquisition.

10. As a result of the foregoing discussion, we are of the view that provisions of Section 17(4) would not apply and had, in fact, not even been invoked because there was no application of mind in respect of the said provisions. As such the right of the petitioners to file the objections under Section 5A could not have been taken away. The fact that they had been taken away is contrary to law. As a result the invocation of Section 17(4) of the said Act is bad in law. It follows that the Section 6 declaration dated 23.07.2013 is also bad in law and the same is quashed.

11. The consequence is that the parties shall be relegated to the stage at which petitioners can file their objections to the proposed acquisition in accordance with law.

12. The writ petitions are allowed as above. There shall be no order as to costs.”

Following the said decision, the invocation of Section 17(4) of the said Act is held to be bad in law and, consequently, the section 6 declaration dated 23.07.2013 is also bad in law and the same is also quashed. The result is that the parties shall be relegated to the stage at which the petitioner can file his objection

to the proposed acquisition in accordance with law.

The writ petition is allowed as above.

There shall be no order as to costs.

**BADAR DURREZ AHMED, J**

**ASHUTOSH KUMAR, J**

**JANUARY 03, 2017/ab**