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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 21.09.2017

+ W.P.(C) 2920/2016 & CM No.12204/2016

JASJEET SINGH MAKHIJA & ANR. Petitioners

Through: Mr. Sumit Bansal with Ms. Richa Oberoi & Mr. Prateek Kohli, Advs.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Roshan Lal Goel & Ms. Anju Gupta, Advs. for R-1/UOI.

Mr. Siddharth Panda, Adv. for R-2 (L&B Deptt. /LAC).

Mr. Rudresh Jagdale, Adv. for DDA.

+ W.P.(C) 2995/2016 & CM No.12577/2016

SUMAN CHHABRA Petitioner

Through: Mr. Sumit Bansal with Ms. Richa Oberoi & Mr. Prateek Kohli, Advs.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Roshan Lal Goel & Ms. Anju Gupta, Advs. for R-1/UOI.

Mr. Siddharth Panda, Adv. for R-2 (L&B Deptt. /LAC).

Mr. Arun Birbal with Mr. Sanjay Singh, Advs. for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. This common order will dispose of two proceedings i.e. W.P.(C) Nos.2920/2016 and 2995/2016.
2. Counsel for the respondent seeks to place on record the counter affidavit in W.P.(C) No.2995/2016. The counter affidavit is taken on the record.
3. Relief claimed by the petitioner in W.P.(C) No.2995/2016 (hereafter referred to as “Suman Chhabra’s petition”) is for a declaration that lands being Khasra Nos.654(4-16), 655(4-16), 656(4-16), 657(4-16), 658(4-16), 667(3-17), 670(4-16), 671(4-16), 672(4-16), 673/1(3-12), 673/2(1-04), 674(4-16), 675(2-17), 676(3-06), 677/1(1-04), 677/2(3-12), 678(1-19), 679(1-12), 680(4-16), 681/1(4-02), 695(4-16), 698(4-06) & 699(2-04) total admeasuring to 72 bighas & 19 biswas, situated at the revenue estate of village Neb Sarai, New Delhi are free from acquisition. The relief claimed in W.P.(C) No.2920/2016 (hereafter referred to as “Jasjeet Singh Makhija’s petition”) is that lands being Khasra Nos.673/1 (min.) and 672 (min.) – measuring 1415 sq. yds. situated in the revenue estate of Village Neb Sarai, Tehsil Hauz Khas, New Delhi are free from acquisition by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In both cases, lands were notified for acquisition on 05.11.1980 under Section 4 of the Land Acquisition Act (hereafter referred to as “the Act”). A declaration under Section 6 of the Act was issued on 21.05.1985. After considering the submissions of the land owners and other persons interested, the award was

made by the Land Acquisition Collector (LAC) on 20.05.1987. The bona fide owners of the suit lands base their claim upon certain transfer documents (General Power of Attorney and Agreement to Sell) executed through the office of the Liquidator, pursuant to Court orders. The owner of the suit lands was one M/s Laxmichand Bhagaji Limited, a non-banking financial company. That entity was subject to winding up proceedings including one before the Bombay High Court (CP 50/1990) where one Official Liquidator was appointed. The petitioners in both these cases claim a similar order made in respect of adjoining land, by this Court in *Asha Jain & Anr. v. Union of India & Ors.* (W.P.(C) No.2987/2016) decided on 08.08.2017 and two other orders (*Kanwal Jain & Anr. v. Union of India & Ors.* (W.P.(C) No.2988/2016) decided on 01.08.2017 and *Ripple Kaur v. Union of India & Ors.* (W.P.(C) No.2921/2016) decided on 01.08.2017). In *Asha Jain & Anr.* (supra), an identical claim for relief that the lands were free from acquisition was examined and the following findings were recorded:

“7. Learned counsel for the respondents urged that the petitioners have no locus to seek declaration as the suit land was purchased by them on the basis of General Power of Attorney and Agreement to Sell. The submission is devoid of merits. It is admitted in the counter affidavit that M/s.Laxmichand Bhagaji Limited was the recorded owner of the suit land and it was sold to the petitioners.

8. Record reveals that originally the land forming part of Khasra No. 675 was recorded in the name of M/s. Laxmichand Bhagaji Limited – a non-banking company. Subsequently, several winding up petitions were filed against it in the High Court of Judicature at Bombay including company petition No. 50/1990, where the official liquidator was appointed. Scheme of

Arrangement or Compromise between the company and its depositors was accepted, approved and sanctioned by the Bombay High Court vide its orders dated 24.10.1991 and 28.11.1991. In Company Application No. 298/2001 in Company Petition No. 76/1991, permission was sought to sell the entire land in possession of the company. The Bombay High Court vide its order dated 10.08.2001 granted permission for the sale of the land after receipt of full consideration. Suman Chhabra sole proprietor of M/s. Sukhshanti Associates purchased the suit land and Agreement to Sell dated 02.01.2004 was executed in favour of M/s. Sukhshanti Associates. In terms of the said agreement, M/s. Sukhshanti Associate was authorized to make payment of the consideration and the 'committee' was to execute Agreement to Sell along with irrevocable General Power of Attorney in favour of M/s. Sukhshanti Associates and / its nominee. The petitioners further averred that pursuant to the agreement dated 02.01.2004, the committee executed a separate Agreement to Sell dated 09.05.2005 in favour of the petitioner - Asha Jain wherein Suman Chhabra had made the confirming party. Along with the agreement dated 09.05.2005, General Power of Attorney was executed in her favour and possession certificate was also issued qua the land measuring 93 sq.yds. in Khasra No.675 situated in the village Neb Sarai.

9. The petitioners further aver that the land forming part of Khasra No. 653 (min) was recorded in the name of Chandro Devi (1/3rd in 838 sq.yds.), S.B.Chaudhary (400 sq.yds.), Balwan Singh, Baljeet Singh and Kuldeep Singh (320 sq.yds. collectively). The said land measuring 800 sq.yds. was purchased by Suman Chhabra vide Agreement to Sell dated 05.06.2000, 07.03.2005 and 05.06.2005, respectively. The same has been transferred in favour of the petitioners vide registered General Power of Attorney dated 09.05.2005 and Agreement to Sell in favour of the petitioner No.1 alongwith possession certificate. These facts have not been controverted by the respondents in the counter-affidavit. Apparently, petitioners are the 'persons interested' to claim compensation which was never offered or tendered to them.

10. It is relevant to note that in similar circumstances in W.P.(C) 2988/2016 & 2921/2016, decided on 01.08.2017, similar relief was granted to the petitioners therein.

11. As the respondents have not denied that the compensation of the suit lands has not been paid and its possession has not been taken, the petitioners are entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra No.653 and 675 admeasuring 800 sq.yds. and 93 sq.yds. respectively vide award No.12/87-88 dated 20.05.1987 is deemed to have lapsed by virtue of Section 24(2) of the Act.”

4. In the present writ petitions, the respondents, especially the appropriate Government have admitted that the possession of the suit lands were, in fact, not taken over. In these circumstances, the relief that these two petitions claim are identical to the relief granted in the other decided cases i.e. *Asha Jain & Anr.* (supra), *Kanwal Jain & Anr.* (supra) and *Ripple Kaur* (supra). A declaration is, therefore, issued that the suit lands i.e. Khasra Nos.654(4-16), 655(4-16), 656(4-16), 657(4-16), 658(4-16), 667(3-17), 670(4-16), 671(4-16), 672(4-16), 673/1(3-12), 673/2(1-04), 674(4-16), 675(2-17), 676(3-06), 677/1(1-04), 677/2(3-12), 678(1-19), 679(1-12), 680(4-16), 681/1(4-02), 695(4-16), 698(4-06) & 699(2-04) total admeasuring to 72 bighas & 19 biswas, situated at the revenue estate of village Neb Sarai, New Delhi in Suman Chhabra’s petition and the suit lands i.e. Khasra Nos.673/1 (min.) and 672 (min.) – measuring 1415 sq. yds. situated in the revenue estate of Village Neb Sarai, Tehsil Hauz Khas, New Delhi in Jasjeet Singh Makhija’s petition are free from acquisition and that the acquisition in respect of the aforesaid Khasra numbers in Suman Chhabra’s petition and Jasjeet Singh Makhija’s petition are deemed to have

lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

The writ petitions are allowed in the above terms.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 21, 2017

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