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

+ W.P.(C) 2959/2015

SAROJ GUPTA & ANR

..... Petitioners

Through: Mr V.K. Garg, Senior Advocate with
Ms Noopur Dubey and Mr Annirudh
Chadha, Advocates.

versus

GNCTD THROUGH SECRETARY & ORS

..... Respondents

Through: Mr Anshuman Sood and Mr Virendra
Kumar Tiwari, Advocates for R-
2/DRMC.

Ms Esha Verma, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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09.11.2017

1. The petitioners have filed the present petition, *inter alia*, praying as under:-

“a) Issue a writ order or direction declaring possession of respondent No.2 on the property of the petitioners i.e. Plot No. 3/11, comprised in Khasra No. 400, Amar Park, Tri Nagar, New Delhi, within the revenue estate of Village Chokri Mubarakabad, Delhi unauthorized and illegal; and

b) direct respondent No.2 to get the property of the petitioners i.e. Plot No. 3/11, comprised of Khasra No. 400, Amar Park, Tri Nagar, New Delhi, within the revenue estate of Village Chokri Mubarakabad, Delhi by mutual agreement and/or by following the due process of law, and pay cost or compensation therefor in accordance with law; and

c) direct the respondents to pay such further compensation for the unauthorised use and occupation of the property of

the petitioners since the year 2008.”

2. The petitioner nos. 1 and 2 claim to be the owners of a land admeasuring approximately 500 sq. yards each, located in the Khasra No. 400, situated at Amar Park, Tri Nagar, New Delhi.

3. The petitioners' grievance is that respondent no.2 (hereafter 'DMRC') has constructed pillars on their land without acquiring the same or paying any compensation to the petitioners.

4. The learned counsel for the petitioners states that a notification under Section 4 of the Land Acquisition Act, 1894 (hereafter 'the act') was issued on 09.05.2007 in respect of certain lands, which were required by DMRC for the MRTS project and these lands also included the properties owned by the petitioners. However, the petitioners claim that their properties were excluded from the subsequent notice dated 08.05.2008 issued under Section 6 of the Act. The DMRC claims that the land bearing Khasra No. 400 is a large parcel of land ad-measuring approximately 3000 sq. yards and the petitioners, at best, have an undivided share in the said property. DMRC claims that the possession of the land on which the pillars have been constructed was surrendered by NITCO Roadways Pvt. Limited (NITCO), which also owns lands in Khasra no. 400. The said company had - prior to issuance of notice under Section 6 of the Act - given its no objection to DMRC for using the land in question and this is the reason why the said parcel of land (which is now claimed by the petitioner) was excluded from acquisition.

5. The learned counsel for the petitioners submits that the properties of other persons included in Khasra No. 400, including NITCO have been acquired and they were also paid compensation for the same. Thus, the

property on which the pillar is built belongs exclusively to the petitioners.

6. This Court is not inclined to examine the aforesaid controversy as to the location of the petitioners' property in these proceedings. The petitioners would be at liberty to file appropriate proceedings for division and/or demarcation of their land. Plainly, in the event it is established that DMRC has constructed pillars on the petitioners' property, therefore, DMRC would necessarily have to compensate the petitioners for the same. Once it is established that the pillars in question have been constructed on the petitioners' properties, the petitioners would be at liberty to approach the DMRC for an appropriate relief.

7. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

NOVEMBER 09, 2017

pkv