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

**DECIDED ON: 11.07.2017**

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W.P. (C) 6525/2013, CM APPL.14182/2013

BEER SINGH & ORS.

..... Petitioners

Through: Mr. Akhil Sachar, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for  
LAC/L&B Deptt. with Ms. Jyoti Tyagi, Advocate.  
Mr. Ajay Verma, Standing Counsel for DDA with  
Ms. Diviani Khanna, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE S.P. GARG**

**S.RAVINDRA BHAT, J. (ORAL)**

1. The petitioners' claim is that the land acquired through Notification dated 21.03.2003 and declaration dated 19.03.2004 and subsequently followed by an Award dated 15.07.2005, published in Official Gazette on 05.08.2005 i.e., 30 Bigha 8 Biswa in various khasra numbers in village Barwala is illegal and void.
2. The respondent, i.e., the Govt. of NCT of Delhi issued a Notification under Section 4 of the Land Acquisition Act, 1894,

(hereafter mentioned as “Old Act”) on 21.03.2003. This Notification did not specify the particulars of the land proposed to be acquired; it reads as follows: -

*“No.F.11(19)/2001/L&B/LA/20112 – Whereas it appears to the Lt. Governor, Delhi that land is likely to be required to be taken by Government at the public expenses for a public purpose namely for Rohini Residential Scheme. It is hereby notified that the land in the locality described below is likely to be acquired for the above purpose.*

*The notification is made, under the provisions of Sub-section 1 of Section 4 of the Land Acquisition Act, 1894, to all whom it may concern.*

*In exercise of the powers conferred by the aforesaid section, the Lt. Governor, Delhi is please to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey the land in the locality and do all other acts required or permitted by that section.*

*Any person, interested, who has any objection to the acquisition of any land in the locality, may within 30 days of the publication of the notification file an objection in writing before the Land Acquisition Collector (North-West), Delhi.*

*Map showing the boundaries of land covered by the Notification is available for inspection in the office of the Land Acquisition collector (North-West), Delhi.*

#### *SPECIFICATION*

| <i>VILLAGE</i> | <i>TOTAL AREA</i> | <i>FIELD NOS. AREA</i> |
|----------------|-------------------|------------------------|
|----------------|-------------------|------------------------|

*Land measuring approx 3000 hectare is bounded on the North by Western Yamuna Cannal leading towards east and joining with Land already acquired by DDA (Phase 4 &5) and thereafter leading*

*towards South bounded by Rohtak Railway Line and thereafter leading towards West bounded by High Tension Line.*

*NORTH*

|                               |                                                        |                                                                                |
|-------------------------------|--------------------------------------------------------|--------------------------------------------------------------------------------|
| <i>High Tension Line WEST</i> | <i>Yamuna Cannal</i><br><br><i>Rohtak Railway Line</i> | <i>EAST</i><br><i>Phase 4&amp;5</i><br><i>acquired</i><br><i>Land boundary</i> |
|-------------------------------|--------------------------------------------------------|--------------------------------------------------------------------------------|

*SOUTH*

*By Order and in the name of the Lt. Governor of Delhi  
H.D. Mahi, Dy. Secy. (LA)”*

3. Subsequently, declaration was issued under Section 6 of the old Act on 19.03.2004. This declaration included the tracks of land that belonged to the petitioners. Various claims for compensation were invited from the recorded owners after which the Land Acquisition Collector announced its Award on 15.07.2005.

4. It is not in dispute that the petitioners accepted the Award and the compensation was assessed; they were not aggrieved by the assessment and, therefore, did not seek any enhancement. A certificate issued on 27.02.2006 evidencing that the compensation was paid to them reads as follows: -

“OFFICE OF THE LAND ACQUISITION COLLECTOR, D/C, NORTH-WEST AT KANJHAWALA. DELHI

NO.LAC/ADM/NW/NT/LA/24

DATED: 27.02.2006

CERTIFICATE

This is to certify that the land mentioned below of the Village-Barwala has been acquired vide Award No. 12/2005-2006/DC/NW announced on 5.8.2005 vide notification No.F-11 (19/2001/L&B/LA/20112) dated 21.03.2003 for the purpose of Rohini Residential Scheme under P.D.D. the possession of the land has been transferred to the Govt. Department /Concerned Department on 6.10.2005.

Sh. Beer Singh S/o Chandu Lal was the interested person/ share holder in the acquired land and compensation of land was paid to him.

| S.No.    | Khasra No. | Area  | Share | Cheque No.576372     |
|----------|------------|-------|-------|----------------------|
| 995      | 27 10/2    | 2-08  | 1/3   | Date:14/10/05        |
|          | 44 13min   | 1-12  |       | Amount:1,13,85,130/- |
|          | 14         | 4-16  |       |                      |
|          | 16         | 4-16  |       |                      |
|          | 17         | 4-16  |       |                      |
|          | 18 min     | 3-12  |       |                      |
|          | 22 min     | 1-12  |       |                      |
|          | 23         | 4-16  |       |                      |
|          | 24         | 4-16  |       |                      |
|          | 25         | 4-16  |       |                      |
| 45       | 2          | 4-11  |       |                      |
|          | 7          | 4-16  |       |                      |
|          | 8/2        | 3-00  |       |                      |
|          | 9/2        | 2-14  |       |                      |
|          | 20         | 3-17  |       |                      |
|          | 21/1       | 2-06  |       |                      |
| 57       | 2 min      | 3-15  |       |                      |
|          | 3/1        | 3-03  |       |                      |
| 18 Plots |            | 66-02 |       |                      |

For Prithvi Raj

N.T.  
(C.Arvind)  
Land Acquisition Collector  
North-West, Delhi

5. In these circumstances, based upon reply to an RTI query - which stated that according to the revenue records the suit lands were acquired without Notification under Section 4, the petitioners approach this Court for quashing of the entire acquisition so far as the suit lands are concerned.

6. Mr. Akhil Sachar, learned counsel for the petitioners contends that in the absence of specification as to the extent of lands proposed to be acquired, the land owner is under disability inasmuch as he cannot prefer objections under Section 5A. Mr. Sachar contends that this in fact happened in the facts of the present case as the petitioners were unaware whether their lands fell within the proposal for acquisition and could not lodge any objection. That subsequently under Section 6 declaration the suit lands were included and later assessed to compensation, did not in any way improve the matter so far as the appropriate government is concerned. In this regard, it is contended by the petitioners that the law is well settled, in that if the appropriate government does not specify either in the Section 4 Notification or in the Section 6 declaration about the lands with specificity, the entire acquisition would fail. Learned counsel relied upon the judgments reported as *Union of India v. M.L. Vashisht & Ors.*, AIR 2004 SC 3315; *Om Prakash Sharma & Ors. V. M.P. Audyogik Kendra Vikas Nigam* (2005) 10 SCC 306 and *M.P. Housing Board v. Mohd. Shafi & Ors.* 1992 (2) SCC 168. It was pointed out that in these circumstances, the fact that the petitioners collected compensation and even surrendered land could not in any manner validate the acquisition. To say that these proceedings are not time

barred, learned counsel relies upon the judgment in *Tukaram Kana Joshi v. M.I.D.C. & Ors.*, AIR 2013 SC 565.

7. The respondents point out to the fact that the Section 4 Notification clearly states that: -

*“Map showing the boundaries of land covered by the Notification is available for inspection in the office of the Land Acquisition Collector (North-West), Delhi.””*

8. It is submitted that according to the decisions of the Supreme Court, such a declaration and stipulation in the Section 4 Notification is sufficient. In any event, according to the respondents, the lands were clearly delineated in the Section 6 declaration. The DDA points out that in the representation filed on behalf of land owners and produced by the petitioners, there is a clear statement that a joint survey was conducted, before declaration was issued on 19.03.2004. The said statement *inter alia* reads as follows: -

*“That after issuance of abovesaid notification a joint survey was also conducted by the officials of Land & Building Department, DDA Department, LAC Department alongwith Halqa Patwari of village-Barwala, after the joint survey a declaration of u/s.6 of Land Acquisition Act, 1894 was notified vide notification No.F-11(11)/2004 /L&B/LA/28281 dated 19.3.2004 (Copy of the same is attached herewith this representation) and subsequently the Award vide Award No.12/2005-06 was announced on 5.8.2005 in which the Khasra numbers were mentioned.”*

9. It is urged that this Court should refrain from exercising its jurisdiction since the petitioners have approached it not only in a belated manner, but also after accepting compensation. Learned

counsel for the respondents rely upon the judgment of the Supreme Court reported as *Delhi Development Authority v. Shyam Sundar Khanna*, 2004 (72) DRJ 356 (SC).

10. It is apparent from the above discussion that two questions need to be resolved in the present proceedings:

First is whether in the absence of specificity as to the lands proposed to be acquired under Section 4 Notification, the entire acquisition, subsequently notified through declaration and culminating an Award would fail; and

Second, whether relief is to be denied even otherwise on the ground of delay and laches.

11. No doubt, the judgments, in *M.P. Housing Board and O.P. Sharma (supra)* relied upon by the petitioners do seem to suggest in a broad manner that absence of specificity either as to the public purpose or as to the lands would result in the vagueness as to the acquisition or the object of it, and that would invalidate the acquisition itself. At the same time, the Court is conscious that there are other judgments - some of larger combination of three Judges or more such as *Indrajit C. Parekh v. State of Gujarat* 1975 (1) SCC 824; *State of Tamilnadu and Anr. v. A. Mohd. Yusuf & Ors.* 1991 (4) SCC 22 and *S. Gurdial Singh & Ors. v. Ludhiana Improvement Trust*, (1997) 5 SCC 138 which state to the contrary. In fact in *S. Gurdial Singh (supra)*, the Court specifically held that if the Notification under Section 4 indicates that a map is available for inspection which contains the specifications with respect to the lands proposed to be acquired and those which are the subject matter of the Notification,

the acquisition cannot be invalidated. The judgment in *O.P. Sharma* does not notice *S. Gurdial Singh (supra)*. Equally it takes into account *M.P. Housing Board (supra)*. Similarly we notice that judgment in *M.L. Vashisht (supra)* merely went on to affirm the conclusions of the High Court. It did not independently discuss the reasoning or judgment or binding decisions rendered by the Supreme Court previously.

12. As a result, in the present case, the Section 4 Notification clearly states that the map and details of the lands proposed to be acquired were available for inspection, the representation given by land owners also indicates that declaration was preceded by a joint survey and that all concerned were aware of it.

13. Furthermore, in the present case, the declaration clearly brought out that all the area was to vest in the appropriate Government; assessment of compensation was done. All these were within the knowledge of the petitioners who even received the compensation and kept quiet for nearly eight years. The petitioners' reliance upon the judgment in *Tukaram Kana Joshi (supra)*, to say that the delay cannot defeat the action, in our opinion, is not persuasive. There is no mention as to whether the litigant who approached the Court was aware of the Section 6 declaration, and more importantly, whether he or they had collected the compensation in this case. Lack of any explanation as to why the petitioners did not approach this Court at the earliest available opportunity, i.e., after issuance of the Section 6 declaration, in our opinion, is a clear bar to the present petition - as held in *Shyam Sundar Khanna (supra)*.

14. For the above reasons, the writ petition has to fail and is dismissed accordingly.

**S. RAVINDRA BHAT, J**

**S.P.GARG, J**

**JULY 11, 2017**  
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