

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

% Date of decision: 16th November, 2017

+ W.P.(C) 2915/2015

VIRENDER KUMAR & ORS. Petitioners
Through: Mr. Amit Trivedi, Adv.

versus

GOVERNMENT OF NCT OF DELHI
& ORS. Respondents
Through: Mr. Siddharth Panda,
Adv. for R-1 & R-3
Mr. Sanjeev Sabarwal,
Standing Counsel for
DDA with Mr. Hem
Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. Ten petitioners have filed this writ petition seeking the following prayers:

“In view of the facts, circumstances and premises submitted the humble Petitioners most respectfully pray that this Hon’ble Court may graciously be pleased to:

(a) Issue appropriate writ, direction or order to initiate fresh proceedings to assess the loss and damages to the

Petitioner as the damages sustained by the Petitioners at the time of Respondents taking possession of the land, by reason of the acquisition injuriously affected the Petitioner, movable and immovable property and his earnings spent on 10 built up houses;

(b) And further direction and order to the Respondents to take action' in accordance with the New Act i.e "THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013" in this matter in a limited time frame or at the earliest.

(c) Call for all records of the Respondents to satisfy and for quashing all the arbitrary action and proceedings of the Respondents.

(d) and since Award under Section 11 of the L.A. Act 1894 (central act 1 of 1894) has been made 5 years or more prior to the commencement of the Act 2013 but physical possession of the land has been taken but the Compensation has not been paid the said proceedings shall be deemed to have lapsed hence respondents be directed to initiate the proceedings of land acquisition afresh in accordance with the provisions of this Act.

(e) Pass such other order or further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice under the present facts and circumstances."

2. Learned counsel for the petitioners submits that since the compensation has not been paid to the present petitioners, the petitioners would be entitled to a declaration that the acquisition proceedings with respect to land / built up area stands lapsed. An alternate prayer has also

been made by the learned counsel for the petitioners that since after the petitioners were dispossessed, the land has been put to use by DMRC, the petitioners should be paid compensation as per the Act of 2013.

3. In this case, a notification under Section 4 was issued on 6th April, 1964. Thereafter, Section 6 notification was issued and award was made on 5th December, 1997 being Award No.3/97-98 for 584 bigha 14 biswas of Village Aali which was required for planned Development of Delhi.

4. It is the case of the petitioners that the petitioners had purchased the land from the erstwhile owners without being informed that the land was subject matter of acquisition. Houses were constructed which were demolished in the year 2009 by the respondent No.2 for construction of Sarita Vihar Delhi Metro Rail Corporation. In the year 2010 the petitioners made a representation for compensation, rehabilitation and Resettlement at an area adjoining the area which was taken over. Attention of the Court is drawn to the minutes of the meeting which was attended by the then Chief Minister of Delhi and Local MLAs.

5. Counsel submits that till date no alternative land or compensation has been received by the petitioners except for *ex-gratia* payment of Rs. 18,000/- per petitioner.

6. Mr. Panda, learned counsel for the LAC submits that the petitioners are neither the owners of the land nor can be termed as interested persons for the reason that not only possession has been taken, land put to use but even the compensation stands paid to the rightful

owners. Mr. Panda submits that in fact it seems that a fraud has been played upon the petitioners. The land had changed hands and the person who sold the land to the petitioners was not the owner, recorded owner or even an interested person as land was sold in the year 1991 in this case to the petitioner No.1 and other petitioners around the same period of time. Reliance is placed by Mr. Panda on para 7 of the counter-affidavit filed to show that compensation stands paid to Sh. Ram Chander s/o Kanaiya, Sh. Ami Lal s/o Kanaiya, Sh. Hukmi s/o, Kanaiya, Sh. Lala S/o Kanaiya & Sh. Chander s/o Kanaiya, each having 1/5 share a reference under Section 18 of the Land Acquisition Act was also forwarded at the Court of ADJ.

7. Mr. Panda further submits that the petitioners would at best have a complaint against the seller who duped them and no relief can be granted under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-settlement Act, 2013 (New Act).

8. We have heard learned counsel for the parties.

9. Para 7 of the counter-affidavit reads as under:

“7. That the possession of the land bearing Khasra No. 153/1 (2-08), 153/2 (2-08) and 154 (3-00) was taken over and handed over to DDA on 26.05.1998. Further, possession of 1 bigha and 5 biswas in Khasra no. 154 was taken over and handed over to DMRC on 16.11.2009. As per the Naksha Mutazmin the compensation was paid on 23.08.2005 with respect to Kh. No 153/1 (2-8), Kh. No. 153/2 (28) and 154 (4-05) to Sh. Ram Chander s/o Kanaiya, Sh.

Ami Lal s/o Kanaiya, Sh. Hukmi s/o, Kanaiya, Sh. Lala S/o Kanaiya & Sh. Chander s/o Kanaiya, each having 1/5 share. It is also pertinent to mention here that reference under Section 18 of LA Act has also been forwarded to the Court of ADJ.”

10. Reading of the counter-affidavit would show that compensation stands paid on 23rd August, 2005 to the owners as per the Naksha Mutazmin. It may be noted that their names also do not find mentioned in the award, the petitioners never filed any objection after Section 4 or Section 6 notification. No documents have been placed on record to show that the name of the petitioners was entered in any record of the Government Register.

11. Resultantly, the relief so claimed and pressed before this Court today cannot be granted. Learned counsel for the petitioner at this stage submits that leave should be granted to the petitioners to seek such remedy as available in accordance with law against sellers, who have duped the petitioners' and deprived them of hard earned money. Liberty is also sought to approach the Government to seek alternate land for rehabilitation as was claimed earlier and reflected in the minutes of the meeting. While we find no merit in the writ petition, the same is dismissed. It would be open for the petitioners to seek such relief against such person as available in accordance with law.

12. The writ petition is dismissed.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 16, 2017/aky

