

\$~5

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P. (C) 6101/2016, CM APPL.25000/2016

BIMLA DEVI

..... Petitioner

Through: Mr. Arun K. Sharma, Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

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

Ms. Mrinalini Sen Gupta with Mr. Shatrajit
Banerji, Advocates for DDA.

Mr. Rajesh Kumar, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

10.07.2017

%

1. The petitioner claims a direction that land which was subject matter of the acquisition measuring 950 sq. yards out of Khasra Nos.786/72 (1-18) situated in village Maidan Garhi, Tehsil Saket, New Delhi, has elapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereafter called "the Act").

2. The suit lands were notified under Section 4 of the Land Acquisition Act, 1894 (the old Act) on 25.11.1980. The declaration under Section 6 of the Old Act was made on 18.06.1985. In this case,

the Award of the acquisition of land of Village Maidan Garhi where the suit land was situated was made on 17.06.1987 vide Award No.23/87-88.

3. The petitioner contends that on 04.05.1999, the original land owner Shri Ramasray sold the suit property in her favour through a registered will and the registered General Power of Attorney (“GPA”) upon payment of consideration. It is also stated that possession of land was handed over to the petitioner’s predecessor who died on 10.02.2014. Contending that neither payment of compensation was made nor physical possession was ever taken over by the Govt. of NCT of Delhi, the declaration sought is that the acquisition in respect of the suit land has lapsed.

4. The respondent Land Acquisition Collector in the affidavit filed states that the acquisition was challenged in two batches of appeals i.e. W.P.(C)No.424/1987 and W.P.(C)No.346/1987. There was a difference of opinion of two Hon’ble Judges which led to ultimately acquisition being upheld. It is further stated that in both set of cases, the aggrieved parties, i.e., land owners and the Union of India preferred appeal by special leave. The land owners’ appeals were apparently dismissed by the Supreme Court in *Om Prakash v. UOI*, 2010 (4) SCC 17. The Govt. of NCT of Delhi states as follows in its counter affidavit:

“8. That in the present case, the possession of the above said land was taken over on 16.07.1987 and handed over to the beneficiary department. Further, as per Statement "A"

compensation amounting to Rs.284338.95 in the name of Sh.Ram Mehar was paid on 14.09.1987, Rs.568677.80 in the name of Sh. Ram Aasray was paid on 16.09.1987 and an amount of Rs. 94779.65 each in the name of Sh. Gyan Singh, Rajender Singh and Ray Singh was paid on 15.09.1987, 17.09.1987 and 18.09.1987 respectively. It is pertinent to mention here that the present petitioner is a GPA holder of Sh. Ram Aasray to whom compensation has already been paid. Thus, the petitioner have no locus to file the present petition as the land has already being handed over to the beneficiary department and compensation was also received by the recorded owners.”

5. Mr. Arun K. Sharma, Advocate relies upon the judgment of the Supreme Court in *Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors*: (2014) 3 SCC 183 to say that since possession was not taken over and compensation not paid, Section 24 (2) of the Act applies invalidating the acquisition in the present case. It is submitted that the petitioner is entitled to maintain the present proceedings being the successor-in-interest and vendee of the original owner. Learned counsel disputes that the land owner received any compensation as is contended by the respondents.

6. It is evident from the above narrative that the petitioner came into picture only in 1989; she relies upon the registered will, GPA and an Agreement to Sell to lay claim for *locus standi* in these proceedings. Secondly, none of these documents ever mentioned the acquisition proceedings or even that the land owners conveyed their rights to collect compensation. On the other hand, the LAC has clearly stated in paragraph 8

of the counter affidavit that the original land owners have received compensation. Those are with respect to particular individuals; even dates and amounts have been specified.

7. Having regard to these facts, which have not been controverted, the position in law as held by the Supreme Court in *KN Aswathnarayana Setty (D) Tr. LRs. & Ors. v. State of Karnataka & Ors.* AIR 2014 SC 279 i.e. the person interested is only one who has some connection with the land and is entitled to receive the compensation, would squarely apply to the facts of the case. In any event, the petitioner is also unable to say that the land owners never received compensation; she cannot refute the averments in the counter affidavit with respect to payment of compensation and dis-possession from the land of the original land owners by showing that she is now in possession of the suit land or part thereof. Therefore, it is insufficient for the Court to hold that she ever had locus. The lawful nature of the continued possession has not been established in these proceedings. At any rate neither the DDA nor the revenue authorities was ever notified about the documents relied upon by the petitioner.

8. For the above reasons, the writ petition cannot succeed; it is, therefore, dismissed.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 10, 2017

/vikas/

W.P. (C) 6101/2016

Page 4 of 4