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

+ **W.P.(C) 7383/2017**

INDU BALA & ORS

..... Petitioners

Through: Mr Vivek Kumar, Advocate.

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Ms Madhu Sweta and Mr Sumit Gupta, Advocates for R-1.

Mr Mohit Bhardwaj and Ms Rashmi Bhardwaj, Advocates for R-2.

Mr Pawan Mathur, Standing counsel for DDA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.08.2017

CM No.30481/2017

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 7383/2017 & CM No.30480

3. The petitioners have filed the present petition, *inter alia*, impugning an order dated 10.08.2017 passed by the Highway Administrator directing demolition of unauthorized occupation of a part of the property (C-149, Pandav Nagar) occupied by the petitioners.
4. The petitioners are residents of Pandav Nagar, Delhi and in occupation of the built-up property bearing no. C-149, Pandav Nagar, Delhi-110092. According to the petitioners, the property occupied by them lies

in Khasra no.26/101 of Village Gharonda Neemka Bangar.

5. According to the NHAI, the property in question lies in Khasra No.27/41/1 which was earlier acquired under Award No.1932/1966.

6. It is apparent that the dispute in the present petition is one of demarcation. It is brought on record that a demarcation by Total Station Method was carried out and the detailed map (which was drawn up in terms of the demarcation) clearly indicates that portion of the plot numbered as C-149 falls within ROW. This land was subject to acquisition in 1964. In view of the above, the impugned order cannot be faulted.

7. Notwithstanding the above, learned counsel for the petitioners submits that since only part of the petitioners' property falls within the acquired land, NHAI must mark the same on the ground before carrying any demolition activity. He further states that once demarcation is done on the ground, the petitioners would voluntarily demolish the portion of the property that falls within the ROW. The learned counsel for the petitioners had also handed over a photograph which would indicate that only a small portion of their built-up property falls within the linear line of demolition.

8. This Court is not inclined to examine as to which portion of the land falls within the ROW; it would suffice to direct NHAI to physically mark out the portion of the property of the petitioners that falls within the ROW and give the petitioners sufficient time to demolish the same. It is seen from the map that the line running through the plot occupied by the petitioners as well as adjacent properties, namely, C-150 and C-82 is a straight line, therefore, it is directed that the respondents mark on the ground, the portions of the property bearing numbers C-150, C-151, C-149 and C-82/A which falls within the ROW. Clearly, the mark on the ground will be a linear line.

This would allay any apprehension of the petitioners that their property is being selected for demolition in an arbitrary manner. This would also ensure that only such demolition as is necessary for the purposes of NHAI, is carried out and no other portion of the petitioners' property which does not fall under ROW is touched.

9. After the area is marked out on the ground, the petitioners would be provided one week's time to voluntarily demolish the property and handover the same to NHAI failing which the NHAI would be at liberty to proceed in accordance with law.

10. In terms of the reallocation policy, the petitioners are also entitled to compensation of ₹32,000 per sq. mtr of built-up area. Given that the residential property of the petitioners is being demolished, it is understandable that the petitioners would be under urgent need of funds. Accordingly, the concerned authority is directed to process the petitioners' application for such compensation as expeditiously as possible and in any event within a period of six weeks from the petitioners filing the application (complete in all respects) with the concerned authority.

11. The petition along with the application is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

AUGUST 24, 2017
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