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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7978/2017 & C.Ms.32910-11/17

INDU BALA & ORS

..... Petitioners

Through: Mr. Vivek Kumar, Advocate

versus

STATE OF NCT OF DELHI & ORS

.....Respondents

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

Mr. Satyendra Kumar, CGSC for respondent
No.2

Ms. Madhu Smeta and Mr. Sumit Gupta,
Advocates for respondent No.3

Mr. Pawan Mathur, Standing Counsel for
respondent-DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

08.09.2017

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1. The petitioners had approached this Court alongwith others complaining of unauthorized taking over of lands by the National Highway Authority of India (*hereinafter referred to as 'NHAI'*) pursuant to directions in W.P.(C) 7383/2017. The Court had directed as follows:-

“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."

2. In the present proceedings, the petitioners question the Award made in 1967 and claim that to the extent it authorizes the taking over of properties, it is unenforceable. It is argued that the petitioners are in settled possession of the properties as having acquired rights through registered Sale-deeds. The Sale-deeds and other conveyance documents relied upon are of recent vintage i.e. they were made in 2010. The materials on record show that the properties were made part of the acquisition pursuant to the Award which was made sometime in 1967.
3. In these circumstances, the challenge to the Award, by a purchaser who claims to have acquired rights, 43 years later, is untenable. At the same time, the Court is of the opinion that the NHAI and other respondents are bound by the directions given in the order dated 24th August, 2017, to the extent of ensuring that only the portions, which can be taken possession of by NHAI, are actually taken over by it.
4. The writ petition is disposed of in above terms. The pending applications also stand disposed of.

**S. RAVINDRA BHAT
(JUDGE)**

**SUNIL GAUR
(JUDGE)**

SEPTEMBER 08, 2017

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