

\$~

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

Date of decision: 07.09.2017

+ W.P.(C) 11340/2015, C.M. APPL.29785/2015

KULDEEP RANA

..... Petitioner

Through : Sh. Rajesh Gupta, Sh. Harpreet Singh
and Sh. M.C. Verma, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Sh. Rajesh Kumar, Advocate, for UOI.
Sh. Yeeshu Jain, Standing Counsel with Ms. Jyoti
Tyagi, Advocate.
Sh. Arjun Pant, Advocate, for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J.

1. The petitioner in these proceedings seeks quashing of notifications acquiring 1 bigha in Khasra No.57//2018, situated in Pul Pehladpur. It is stated that the acquisition of the said lands (hereafter "suit lands") lapsed by reason of operation of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter "2013 Act").

2. The facts of the case are that on 27.10.1999, a notification under Section 4 of the erstwhile (now repealed) Land Acquisition Act, 1894 (hereafter "old Act") was issued proposing to acquire a large tract of land, including the suit lands. A declaration under Section 6 of the old Act followed and was published on 03.04.2000. It is not in dispute that the award, assessing the suit lands to compensation, was made in 2000.

The petitioner, claiming to be in possession of the suit lands since 1989, argues that since his lawful possession was not disturbed, with the enactment of the 2013 Act, the acquisition lapsed, because possession was not taken any time in 5 years before commencement of the said Act.

3. The Government of NCT of Delhi and the Delhi Development Authority (DDA) resist these proceedings. Both argue that possession of the acquired lands-including suit lands was taken; it is also stated that the compensation was paid to, and collected by the recorded owner.

4. The counter-affidavit by the Government of NCT of Delhi, pertinently states as follows:

“6. That the present writ petition is liable to be dismissed as the petitioner has filed the present writ petition in his individual name on the basis of GPA which writ petition should otherwise have been maintained only in the name of the recorded owner as the ‘Agreement to Sell’ does not confer any right, title, or interest to the petitioner as no sale deed has followed in pursuance to the said ‘Agreement to Sell’.

7. That the present writ petition is liable to be dismissed as after completing the acquisition related requirements under the law, the answering respondent has duly taken the actual vacant physical possession of the subject land falling in khasra number 57/18 (1-00) as reflected in the name of Shyam Sunder Gupta on 9.5.2000 and the said recorded owner namely Mr. Shyam Sunder Gupta has also received the compensation of Rs.4,27,365/- against the said land vide cheque number 540190 on 27.8.2002. Thus having accepted the compensation after the actual possession was duly taken by the Government, there remains nothing in the present writ petition which is to be adjudicated upon by the Hon’ble Court and the same deserves dismissal.

8. That it is submitted that the lands of village Prehlad Pur Bangar were notified vide Notification under Section 4 & 17 (1) of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under Section 6 of the Act dated 3.4.2000 as the purpose of the acquisition was Rohini Residential Scheme, Phase IV and V. The Award was also passed vide Award No.14/2002-03 dated 8.7.2002 and the actual physical vacant possession was also taken on 9.5.2000 in pursuance of the urgency clause and also the compensation was duly paid to its recorded owner in the year 2002 vide cheque number, stated supra.”

5. The judgments of the Supreme Court clarify that if either compensation is not paid or possession not taken, during the stipulated time period, the acquisition under the old Act lapses, by reason of Section 24(2) of the 2013 Act. In the present case, both events occurred long before the 2013 Act came into force. The petitioner's slender hope of success is a claim to ownership. But that is based not on title, or valid *inter vires* conveyance, but rather, on an unregistered agreement to sell, unregistered power of attorney, and a will (all of 1989 vintage). As against this, his conceded vendor, the recorded owner, collected compensation in 2002; vacant possession of land had been taken on 09.5.2000, by invoking the urgency clause under the old Act. There is no denial to these factual averments by the respondents.

6. For the above reasons, we find no merit in the petition. The writ petition is accordingly dismissed.

S. RAVINDRA BHAT, J

SEPTEMBER 07, 2017

SUNIL GAUR, J