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

% *Date of Judgment: 06th February, 2018*

+ W.P.(C) 4576/2013

JAI PARKASH GUPTA Petitioner

Through: Mr.Fanish K. Jain, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through: Mr.Sanjay Kumar Pathak, Mr.Sunil Kumar Jain and Mr.Kushal Raj Tater, Advocates for respondent/LAC-L&B, GNCTD.

Mr.Ajay Verma, Senior Standing Counsel with Ms.Diviani Khanna, Advocate for respondent/DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. This is a petition under Article 226 of the Constitution of India. The petitioner seeks a direction, order or writ in the nature of certiorari or any other appropriate writ, order or direction for quashing the impugned Notification bearing No.F.11(17)/91/L&B/LA/6518 dated 28.04.1995 as also Notification under Section 6 of the Land Acquisition Act, 1894.
2. The necessary facts to be noticed for disposal of this petition are that a Notification under Section 4 of the Land Acquisition Act, 1894

(hereinafter referred to as 'the Act') was issued on 28.04.1995, a Notification under Section 6 of the Act was issued on 26.04.1996. Aggrieved by the aforesaid two notifications, the Resident Welfare Association of the area filed a Writ Petition (Civil) No.3938/1996 titled as '*Parhlad Vihar Residents Association and Ors vs. Union of India and Ors*' in the year 1996. The challenge was primarily laid to the invoking of the urgency provision under Land Acquisition Act and a prayer for quashing was made. In the year 2000, the said Welfare Association filed another writ petition pertaining to land falling in Parhlad Vihar Residential colony. By an order dated 09.07.2007, by a common judgment, both the writ petitions were dismissed which led to filing of a SLP No.12522-12523/2007 before the Supreme Court of India. By an order dated 03.08.2007, interim stay was granted. By a common judgment dated 21.03.2012, the SLPs were allowed, however, the judgment was rendered in the case of ***Ramdhari Jindal Memorial Trust vs. Union of India and Ors.***, reported in 2012 (11) SCC 370. The Supreme Court of India quashed the invocation of urgency provision and declaration under Section 6 of the Land Acquisition Act. The competent Authority was directed to invite objections under Section 5(A) of the Land Acquisition Act pursuant to Notification dated 28.04.1995 and was directed to proceed with the matter in accordance with law. It is claimed by the petitioner that Land Acquisition Collector did not issue any notice to the petitioner and other similarly situated persons by way of a notice/Public notice/Publication inviting objections under Section 5(A) of the Land Acquisition Act. Instead of inviting objections under Section 5(A) of

the Land Acquisition Act, the Land Acquisition Collector issued a Notification dated 26.04.2013 under Section 6 of the Land Acquisition Act. The said notification was issued by the LAC after a gap of more than one year from the date of judgment dated 21.03.2012. It is the case of the petitioner that the said notification has not been issued within the stipulated period of one year specified in proviso to Sub-Section 1 of Section 6 of Land Acquisition Act. Mr.Jain, counsel for the petitioner submits that this issue is no longer *res integra*. In the case of ***Sunil Goel & Ors. etc vs. State & Ors and other connected matters***, reported in 2014 Volume-211 DLT 382, an identical question has arisen and the following issues were framed:

- “(i) *Whether the notification is a nullity as having been made beyond the time period prescribed by the Land Acquisition Act for issuing a declaration under Section 6?*
- (ii)
- (iii)”.

3. Mr.Jain, counsel for the petitioner relies on para 18 of the aforesaid judgment which reads as under:

“Having considered the submissions made by the learned Counsel on both sides, we are of the view that the submissions made by the learned Counsel for the petitioners ought to be accepted. This is so because the decision of the Supreme Court in the case of Padmasundara Rao (supra) covers the present case on all fours. The very issue before the Supreme Court, as pointed out by us earlier, was whether, after the quashing of a declaration under Section 6 of the said Act, a fresh period of one year would be available to the State Government to issue another declaration under Section 6. This question has been answered by the Constitution Bench of the Supreme Court in

Padmasundara Rao (supra) in the negative. In other words, when a Section 6 declaration is quashed, it does not give a fresh period of one year to the Government to issue another Section 6 declaration. The Section 6 declaration, after such quashing, if at all, can be issued only during the balance period”.

He submits that second notification was not issued within the period of one year from 21.03.2012, when the notification was quashed.

4. Mr.Ajay Verma and Mr. Pathak, counsel for respondents have opposed the writ petition on two grounds, firstly that the land vests with the Gram Sabha and secondly the petitioner was not a party to the writ petition.
5. In response to the objections so raised, Mr.Fanish Jain, counsel for the petitioner submits that firstly the land of the petitioner was subject matter of the writ petition which was filed by the Welfare Association and secondly in case the land of the petitioner was not part of the writ petition, there would be no occasion for LAC to issue a fresh notification under Section 6 in respect of the subject land.
6. On the objections with regard to the land being vested in the Gram Sabha, Mr.Jain submits that the Court has followed a decision rendered in ***Sanjeev Solanki vs. Delhi Development Authority and Ors., W.P.(C) 1999/2015***, decided on 24.01.2017 and ***Parshotam Joshi vs. Govt. of NCT of Delhi & Ors., W.P.(C) 4255/2016***, decided on 08.11.2017 and he would have no objection, if the Court clarifies that the question of title of the land is concerned, it would be kept open to be decided in appropriate Court of jurisdiction.

7. Having heard the counsels for the parties, we find that case of the petitioner would be covered by the decision rendered in the case of *Sunil Goel* (supra).
8. We see no reason to take a different view than the decision rendered in the case of *Sunil Goel* (supra). As far as, the objection with regard to Gram Sabha is concerned, we make it clear that we have not expressed any opinion with respect to the title of the land; this issue is left open to be decided in the appropriate court of jurisdiction.
9. Since the subsequent notification having been issued beyond the prescribed period of one year is quashed qua the land subject matter of this writ petition.
10. The writ petition stands disposed of, in above terms.

CM No.10508/2013 (stay)

The application stands disposed of, in view of order passed in the writ petition.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 06, 2018

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