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

+ W.P.(C) 7425/2016

SUSHILA DEVI & ORS Petitioners
Through: Mr. S. U. Mirza, Adv.

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Dev P. Bhardwaj, CGSC with Ms.
Anubha Bhardwaj, for R-1.
Ms. Rachna Srivastava, Ms. Monika,
Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **03.04.2018**

1. This writ petition has been filed wherein the following substantial prayers have been made:

“a. to revive the authorities under Displaced Persons (Compensation & Rehabilitation) Act, 1954 and all the machinery / authority created under the Act.

b. To direct respondent No.1 & 2 to pass suitable order in respect of property bearing No. 11/376/377/378 (1/2) Teliwara, Shahdara, New Delhi”

2. Though notice in this petition was issued on 24.08.2016, no counter affidavit has been filed by respondent No. 2/GNCTD. Counter affidavit has been filed only by respondent No. 1/Union of India.

3. Ms. Rachna, who appears on behalf of respondent No. 2/GNCTD, says that the writ petition can be disposed of as a notification bearing No. S.O.3437(E), dated 11.11.2016, has been issued, whereby, an Authority has been set up to look into the claims lodged under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (in short ‘1954 Act’).

3.1 Counsels inform me that the 1954 Act was repealed via the Displaced Persons Claims and Other Laws Repeal Act, 2005.

4. It is, thus, submitted by the learned counsel for respondent No. 2/GNCTD that recourse was taken to Section 6 of the General Clauses Act, 1897 while issuing the aforementioned notification and setting up an Authority to adjudicate upon matters connected with the 1954 Act.

5. Broadly, the facts, as set out in the petition, show that the predecessors-in-interest of the petitioners had an interest claim in what is referred to as the “second portion” of the property described as: 375-379, Teliwara, Shahdara, Delhi.

6. I am informed by the learned counsel for the petitioners that the second portion of the aforementioned property has also been referred to in prayer clause (b) of the writ petition in the manner in which it is presently described.

“b. To direct respondent No.1 & 2 to pass suitable order in respect of property bearing No. 11/376/377/378 (1/2) Teliwara, Shahdara, New Delhi”

7. Mr. Mirza says that the predecessors-in-interest of the petitioners herein had approached this Court by way of a writ petition bearing No. C.W. 1082/1973, titled: *Smt. Sita Devi and Others vs. Union of India & Ors.*

7.1 It is stated that that the writ petition was disposed of by the order dated 20.05.1980 and that, the operative directions contained in the said judgment have not been implemented by respondent Nos. 1 and 2 to date, which is why, the petitioners are aggrieved.

8. The operative directions which were issued by a Single Judge of this Court via order dated 20.05.1980 read as follows:-

“I, therefore, accept this writ petition and quash the impugned orders and direct that the Assistant Settlement Commissioner shall first determine whether the property is allottable and then examine whether it can be divided into convenient portions, and if so, then decided who out of the several occupants is or are best entitled to transfer....”

9. It is therefore the contention of the petitioners that if the newly constituted Authority under the aforementioned notification, dated 11.11.2016, were to examine their claim in the light of the judgment dated 20.05.1980, passed in CW 1082/1973, their grievance would get addressed. Ms. Rachna, who appears for respondent No. 2/GNCTD states that if a direction is issued by this Court, needful would be done within the timeline so fixed by this Court.

10. Having regard to the submissions made by the learned counsel for the parties, the writ petition is disposed of with the following directions:

- (i) The Authority constituted pursuant to the notification dated 11.11.2016, to which I have made a reference above, will entertain the representation of the petitioners
- (ii) The petitioners will make their representation within three weeks of receipt of a copy of the order.
- (iii) Upon receipt of the representation, the Authority concerned will issue notice to the petitioners fixing a date, time and venue for the hearing.
- (iv) Upon the petitioners and/or their representative being heard, the concerned Authority will pass a speaking order with regard to the representation of the petitioners.
- (v) A copy of the speaking order will be furnished to the petitioners.
- (vi) In case the petitioners are aggrieved, they will have the liberty to assail the order in a manner known to law.

10.1 Needless to say, the concerned Authority will deliberate on the representation of the petitioners with due expedition and dispose of the same within six weeks of closing of arguments in the matter. No costs.

11. *Dasti.*

RAJIV SHAKDHER, J

APRIL 03, 2018/SRwt