

\$~51

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8713/2014 & CM APPL. 20041/2014**

MAHAVEER

..... Petitioner

Through: Mr. Akhil Sachhar, Advocate.

versus

LT. GOVERNOR, NCT OF DELHI & ORS

..... Respondents

Through: Mr. Dhanesh Relan, Standing Counsel
 for DDA with Ms. Gauri Chaturvedi
 and Ms. Mrinalini Sharma, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **30.10.2018**

1. This writ petition seeks the quashing of a notification dated 21st March 2003 issued under Section 4 of the Land Acquisition Act, 1894 in respect of land and part of village Pehladpur Bangar, NCT of Delhi. It also seeks a quashing of the declaration dated 19th March 2004 under Section 6 of the Land Acquisition Act, 1894 (LAA) and the consequent Award dated 27th June/12th July 2005.

2. Pursuant to the notice issued in this petition on 10th December 2014, on which date the Court also directed parties to maintain status quo with regard to the nature, right and possession of subject land, replies have been filed

booth by the Delhi Development Authority (R-3) as well as the Land Acquisition Collector (LAC) (North) (R-4).

3. As far as the reply of the LAC is concerned, it is confined to invocation of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereafter the 2013 Act). It is pointed out that the acquisition of the subject land was for the Rohini Residential Scheme and that possession had been duly taken over on 26th August 2005 and handed over to DDA on the spot for the above purpose. It is averred in para 12 that “not only the award has been duly made but also with the possession of majority of the awarded land is being taken and also the payment of majority of compensation recorded owners have been made.”

4. However, specific to the present petition, there is no averment that compensation for the land acquired has been made to the Petitioner. In fact, the hand written portion at the end of para 7 of the counter affidavit reads: “and possession of 0-16 could not be taken, and compensation not paid.” Further, learned counsel appearing for the LAC does not dispute the fact that compensation has not been paid to the Petitioner for the land that has been acquired.

5. As far as the reply filed by the DDA is concerned, there is no dispute that the land (less 0.16 Biswah which was not handed over) has not been put to use for the Rohini Residential Scheme. There is also no denial of the photographs placed on record by the Petitioner as Annexure E (Colly) which show some generators on the land, which according to the Petitioner belong to his tenant.

6. As noticed in several decision of this court and in particular the decision dated 9th August 2018 in W.P.(C) 7962/2016 (*Ravinder Yadav v. The Lieutenant Governor NCT of Delhi*), one of the necessary ingredients for the applicability of Section 24 (2) of the 2013 Act stands satisfied. Since the Award was announced more than five years prior to the commencement of the 2013 Act, the Petitioner is entitled to declaration that the acquisition proceedings with regard to the subject land are illegal.

7. Consequently, the writ petition is allowed and the impugned notifications under Sections 4 and 6 and the consequential Award are hereby quashed

8. The writ petition is allowed and the application is disposed of in the above terms.

S. MURALIDHAR, J.

SANJEEV NARULA, J

OCTOBER 30, 2018

nk