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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5661/2015, C.M. No. 10188/2015, C.M. No. 31355/2017 & C.M. No. 2777/2018**

RIAZUDDIN

..... Petitioner

Through: Ms. Sona Babbar, Advocate for Mr.
Peeyoosh Kalra, Advocate for LR
No-1(d) of the Petitioner.
Mr. Hetish Raj Singh, Advocate for
LR-1(a), (b) and (c).

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Rajiv Bansal, Senior Counsel
with Mr. Dhanesh Relan, Ms. Kamna
Singh and Ms. Parul Panthi,
Advocates.
Mr. Ashish Pradhan, Advocate for
Mr. Siddharth Panda, Advocate for
LAC/L&B.
Ms. Harsha Sharma, Advocate for
applicant.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
20.12.2018

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Dr. S. Muralidhar, J.:

1. The prayer in the present petition is that the entire land acquisition proceedings pertaining to two plots K-16 and K-16 in Hauz Khas Enclave, both admeasuring 1250 sq. yds. each, comprised in Khasra No.569/297

situated in the revenue estate of village Kharera, Delhi should be deemed to have lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act').

2. Even according to the Petitioners, the acquisition proceedings commenced on 1st July 1961 with issuance of a notification under Section 4 (1) of the Land Acquisition Act, 1894 ('LAA') even though the land in question was originally excluded from acquisition. Award No.1187 came to be thereafter passed.

3. It appears that the aforementioned land in question had been purchased by one Mr. K. K. Chopra pursuant to a sale deed dated 23rd August 1970, a copy of which is enclosed as Annexure P-1 to the petition. Since the Award was in respect of the land in question as well, Mr. Chopra, being aggrieved by the acquisition, filed W.P.(C) 333-D/1961 and 335-D/1961 in this Court seeking the quashing of the notice issued to him under Section 9 (1) of the LAA asking him to handover possession of land in question.

4. Even according to the Petitioners, the land in question was handed over by the Delhi Administration to the DDA on 18th July 1961 itself. On 9th May 1969, two writ petitions filed by Mr. Chopra were dismissed by the learned Single Judge of this Court and appeals being LPA Nos.44-45/1969 were filed by Mr. Chopra in this Court. A Division Bench, by its judgment dated 22nd December 1969 reversed the learned Single Judge's decision.

5. On 5th September 1970, Mr. Chopra is stated to have executed a General Power of Attorney ('GPA') in favour of Mr. Mirajuddin, the brother of the present Petitioner. It is stated that, on 29th September 1970, Mr. Chopra sold the land admeasuring 2500 sq. yds. out of the total land to the present Petitioner by an Agreement to Sell for a consideration of Rs.5 lakhs. The copy of the said agreement is enclosed as Annexure P5 to the petition.

6. Against the judgment dated 22nd December 1969 of the Division Bench of this Court allowing LPA Nos.44-45/1969, the DDA filed SLP(C) 2024/1970. Meanwhile, Mr. Chopra died on 16th November 1987 and thus, in the pending SLP, his Legal Representatives ('LRs') got substituted. On 5th August 1988, the said SLP came to be disposed of by the Supreme Court recording terms of settlement as under:

“(1) The validity of all the notifications issued under the land Acquisition Act by the Chief Commissioner in so far as they pertain to the lands of late K.K. Chopra now represented by the respondents herein, will stand upheld.

(2) The appellants should make available to the respondents an extent of 1000 square yards from out of the land situated in the residential area of the colony to enable them to build houses for themselves. The appellants should demarcate the said extent of land and hand over possession to the respondents within a period of two months from today.

(3) On such possession being delivered, the respondents will be entitled to occupy the land without making any payment to the appellants and utilize the land for the construction of their houses subject to approval of plans etc. by the concerned authorities and subject to their complying with all the requisite formalities.

(4) Except for the extent of 1000 sq yards to be made available to the respondents, they would be bound by the acquisition proceedings and they will only be entitled to payment of compensation in accordance with law for the extent of land covered by the acquisition.

(5) Since the allotment of 1000 square yards of land to the respondents is made with reference to the peculiar facts and circumstances of the case, this will not constitute a precedent in other cases.”

7. The concluding portion of the judgment of the Supreme Court dated 5th August 1988 reads as under:

“In the result, the appeal will stand allowed except in so far as an extent of 1000 sq yards of land has been excluded from acquisition and ordered to be made available to the respondents to construct their houses thereon parties will bear and pay their respective costs.”

8. As a consequence of the above judgment, 1,000 sq. yds., i.e. 1 *bigha*, in Khasra No.569/297min situated in village Kharera, Delhi was duly handed over by the DDA to the LR's of Mr. Chopra on 10th April 1989. The said document has been placed on record by the Petitioners themselves.

9. What emerges from the narration thus far is that the land acquisition proceedings in respect of the land in question stood validated except to the extent of 1,000 sq. yds. which was made available to the LR's of Mr. Chopra pursuant to the judgment of the Supreme Court dated 5th August 1988.

10. Unknown to the DDA, about three months prior to the judgment of the Supreme Court, on 24th May 1988, a civil suit was filed by one Mr. Manmohan Krishan against two persons viz., Mr. Rajiv Chopra and

Mr. Subhash Gogia. In this suit (later renumbered as 594/2006), the DDA was impleaded as Defendant No.3. The present Petitioner was impleaded as Plaintiff No.2. The prayer in this suit was for a perpetual injunction restraining the Defendants from evicting or interfering with the possession and enjoyment of the premises bearing Nos. K-16 and K-17, Hauz Khas, New Delhi of the Plaintiff. The claim of the Plaintiff, Mr. Manmohan Krishan, was that he was residing in the said premises “in the capacity of a lawful tenant.” He alleged that both Mr. Rajiv Chopra and Mr. Subhash Gogia had threatened to evict him. It was also alleged that DDA had threatened to demolish the construction raised by Mr. Krishan.

11. In the said suit, the present Petitioner, by an application under Order XXII, Rule 10 CPC sought impleadment as a Plaintiff. In that, he claimed that he had purchased the two plots from Mr. Manmohan Krishan. This application was allowed.

12. A similar application was filed by Ms. Jasbir Kaur. She alleged that she had purchased plot K-16. However, her application was dismissed.

13. Against such dismissal, Ms. Jasbir Kaur filed RCA No. 24/07. While the appeal was pending, Ms. Jasbir Kaur was substituted by three other women, viz. Ms. Kusum Lata, Ms. Shalini Goel, and Ms. Alka Goel, who prayed for impleadment stating that a registered sale deed had been executed in their favour on 23rd June 2008 by Mr. Tiger Singh who is alleged to be the power of attorney holder of the present Petitioner.

14. All of this was happening notwithstanding the judgment dated 5th August 1988 of the Supreme Court which was in respect of the land comprising the two plots K-16 and K-17, Hauz Khas Enclave. In view of the judgment of the Supreme Court upholding the validity of the land acquisition proceedings *qua* the said two plots, all the subsequent transactions referred to in Suit No. 594/2006 were invalid. Yet, they were all permitted to happen, and the suit proceeded on that basis. All of this clearly was on the basis of the GPA and Special Power of Attorney ('SPA') executed by the present Petitioner and one Mr. Mohammad Arsad in favour of Mr. Tiger Singh. These documents had no validity in the eye of law.

15. Despite all this, the trial Court partly decreed the suit *qua* K-17, Hauz Khas, restraining the DDA and its officials from dispossessing the present Petitioner except in accordance with the due process of law. Aggrieved by the above judgment of the trial Court, DDA, filed RCA No.27/2007.

16. By a judgment dated 18th October 2008, the first appellate Court allowed the DDA's appeal and dismissed Ms. Jasbir Kaur's appeal. The first appellate Court *inter alia* observed that "as per settled position of law a mere agreement to sell does not create right, title or interest". It is further noted that "in the sale deed Dt. 23.01.2008, it is mentioned to be executed by Mr. K.K. Chopra, S/o Sh. J.D. Chopra through his attorney's Sh. Riazuddin, S/o Sh. Giasuddin, Mirazuddin, S/o Giasuddin and Mohd. Asraf vide GPA dated 07.12.1993, (this GPA is not placed on record) and they had together appointed Sh. Tiger Singh as their attorney vide GPA dated 29.12.1996. Such a fairy tale is yet to find recognition in law".

17. It was also observed by the first appellate Court that the Plaintiffs and Appellants had not come to the Court with clean hands and therefore injunction could not have been granted. It was also observed as under:

“And above all the RCA No. 24/2007 filed by Ms. Jasbir Kaur and the civil suit No. 594/2006 filed by Sh. Manmohan Krishan and later on joined by Mr. Riazuddin now respondent; are a classic of violative of the judgment/order of the hon’ble Supreme Court of India. In the civil appeal No. 2024 (N) 1970 filed by (i) UOI through the Secretary land & Building Department Delhi Administration, Vikas Bhawan, I.P. Estate, New Delhi (ii) Chief Commissioner (now Lt. Governor) Delhi (iii) Land Acquisition Collection, Delhi Vs. 1. Sh. Krishan Kumar Chopra, S/o Sh. Gautam Dev Chopra, R/o No. 37, Pusa Road, New Delhi (deceased). Now represented by (a) Rajiv Chopra (b) Zaman Chopra (c) Mrs. Vidya Chopra (d) Mrs. Mona Nanda All resident of K-18 Hauz Khas, New Delhi.”

18. While setting aside the judgment and decree dated 24th July 2007 of the trial Court, thereby dismissing Ms. Jasbir Kaur’s appeal and allowing the DDA’s appeal, the first appellate Court imposed costs of Rs.50,000/- each on Mr. Manmohan Krishan and the present Petitioner for “waging false, frivolous and vexatious litigation for almost two decades”.

19. The present Petitioner filed a second appeal being RSA No.226/2008 in this Court. Ms. Kusum Lata and others filed RSA No.235/2008. Both the RSA’s were dismissed by a common judgment dated 28th April 2015 of the learned Single Judge of this Court. *Inter alia*, it was observed that as far as Ms. Kusum Lata, Ms. Shalini Goel, and Ms. Alka Goel were concerned, they were not parties in the trial Court and could not have been made parties in the appeal for the first time. On that short ground, their appeal was

dismissed.

20. As far as the appeal of the present Petitioner is concerned, it was observed:

“If at all on the basis of the documents he had drawn any right title or interest in the property before the date of compromise before the Apex court, then they ought to have been impleaded as parties before the Apex court either of their own or at the instance of Sh. K.K. Chopra who was the owner of the suit property. This having not been done does not permit the appellant/Sh. Riazuddin to contend now that his possession be protected. Even if the appellant is deemed to be in possession, it would be in the capacity of a trespasser and a trespasser cannot be granted injunction against a lawful owner which admittedly in the instant case happens to be the UOI through DDA.”

21. It was held that the appeal of the present Petitioner was “totally misconceived as it does not involve any question of law much less a substantial question of law”. It was noted that the Petitioner had “already been directed to be ejected from the suit premises”. SLP(C) 16196/2015 preferred against the above judgment of the learned Single Judge came to be dismissed by the Supreme Court on 29th May 2015.

22. The present petition was first heard in this Court on that very date, i.e. 29th May 2015. However, the Petitioners do not appear to have disclosed to this Court about the fate of the aforementioned SLP filed by the Petitioner himself in the Supreme Court. On that date this Court passed an interim order that the parties were to maintain *status quo* in respect of the land in question.

23. The reply of the DDA was filed on 3rd November 2016 and the reply on

behalf of the Land Acquisition Collector (South) ['LAC(S)'] was filed on 1st March 2017. It was reiterated by the LAC that the lands vested in the State pursuant to the Award dated 14th May 1987 and that the Petitioner had no *locus standi* to file the present petition in respect of the above land. It was *inter alia* pointed out that the present Petitioner had full knowledge about the status of the land in question and purchased the lands without taking permission from the competent authority as required under the Delhi Land (Restriction of Transfer) Act, 1972 ('DLRTA'). It is pointed out that Section 24 (2) of the 2013 Act would not be applicable as possession of the land in question had already been taken over by the Government and handed over to the beneficiary department and compensation had been paid to the recorded owners.

24. Surprisingly, in the rejoinder filed by the Petitioner, it is pleaded that "there is no purpose left with the Respondent No.3 (the DDA) to claim ownership right over the subject matter of the property" and further that the DDA "had not given any details for what purpose now they are seeking the possession of the subject matter of the property". It is further contented by the Petitioner that "the Respondent No.3/DDA being the government department cannot act as a land grabber".

25. It is claimed that the Petitioner (who, incidentally, has been substituted by his LRs after his expiry) had acquired title, possession, and ownership through the agreement to sell dated 29th September 1970 by paying valuable consideration to Mr. Chopra. This 'valuable title' is traced to a GPA dated 5th September 1970 which had been executed in favour of Mr. Mirajuddin,

the brother of the present Petitioner.

26. It is claimed that Mr. Mirajuddin executed the sale deed in favour of the Petitioner in respect of K-17, Hauz Khas on 14th November 2005. It is claimed that since Mr. Rajiv Chopra was a party in the Civil Suit No.549/2006 instituted on 24th May 1988, the settlement entered into before the Supreme Court was to no avail only because the suit was instituted before the date of compromise entered into on 5th August 1998 before the Supreme Court.

27. In the rejoinder filed to the counter-affidavit of the DDA, it is contended that the order of the Supreme Court was “behind the back of the Petitioners” and therefore was not binding on the Petitioner.

28. The above submissions have been considered. The present case is perhaps a classic example of abuse of the process of law. The facts speak for themselves. Despite the judgment of the Supreme Court dated 5th August 1988 upholding the validity of land acquisition proceedings, the very same property was transacted, time and again, on the basis of GPAs and SPAs. Even a sale deed was executed thereafter in the teeth of the order of the Supreme Court.

29. The extent of the abuse of the process of law is evident from the fact that the parties, with full knowledge of all of the above proceedings, could think of entering into such transactions and then approach this Court in 2015 - 27 years later - seeking a declaration to the effect that land acquisition proceedings in respect of the land in question has lapsed even though they

were proceedings were upheld by the Supreme Court.

30. The abuse of the process of law is also apparent from the fact that the same Petitioner who unsuccessfully sought a permanent injunction in respect of K-17, Hauz Khas now comes to the Court claiming a declaration, not only in respect of that very plot, but also in respect of K-16, Hauz Khas for which he never laid a claim earlier. It may be recalled that K-16, Hauz Khas was claimed by Ms. Jasbir Kaur and she lost all the way through up to the Supreme Court. The Petitioner herein was himself a party to the suit which was partly decreed followed by an appeal which was allowed and followed by second appeal by him which stood dismissed. His SLP in the Supreme Court also stood dismissed. Despite all this, Petitioner wants this Court to declare under Section 24 (2) of the 2013 Act that the same land acquisition proceedings should be deemed to have lapsed.

31. Judicial notice can be taken of the fact that the property that forms the subject matter of the present petition is extremely valuable, being in one of the prime localities in Delhi. An extent of 2,500 sq. yds. in an area such as Hauz Khas Enclave is obviously worth several crores of rupees. That people are willing to risk being pulled up for abuse of the process of law is perhaps explained by the high stakes involved. Nevertheless, if the rule of law has to have any meaning and earlier proceedings, which had culminated before the Supreme Court in the order dated 5th August 1988, are not be reduced to a mockery, this Court has to come down firmly on this kind of a litigant.

32. There can be no question whatsoever of entertaining a petition like this where the Petitioner is himself a party to earlier proceedings where he was

unsuccessful in seeking to assert his rights of possession. It is astounding that this very Petitioner is now terming the DDA as a “land grabber”. Clearly, the Petitioner through his LRs has no respect for the rule of law or for the orders of Courts.

33. There can be only one result in a petition of this nature - dismissal. However, with the abuse of the process of law being so apparent, the Court dismisses the writ petition and all the pending applications along with costs of Rs.5 lakhs which will be paid by the LRs of the present Petitioner to the Prime Minister National Relief Fund within a period of four weeks.

34. The Court further directs the Vice-Chairman, DDA

(i) to take immediate steps to recover the possession of the plots in question i.e. K-16 and K-17 Haus Khas Enclave

(ii) institute a formal inquiry into the registration of the sale deed dated 24th November 2005 in respect of the plot at K-17, Hauz Khas and on that basis initiate, if so warranted, criminal proceedings against those involved. The said enquiry will be completed within 8 weeks from today.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 20, 2018/ss