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

+ **W.P.(C) 6439/2015**

FATEH SINGH & ANR. Petitioners

Through: Mr. Tarun Kr. Tiwari with
Mr. Rajesh Gupta, Mr. Harpreet Singh &
Mr. M.C.Verma, Advs.

versus

UNION OF INDIA & ORS Respondents

Through: Ms. Saroj Bidawat with Ms .Neelam, Advs.
for R-1/UOI.
Ms. Jyoti Jain, Adv. for Mr. Yeeshu Jain,
Adv. For L&B/LAC.
Mr. Dhanesh Relan, St. Counsel with
Mr. Rajeev Jha & Ms. Gauri Chaturvedi,
Advs. for DDA.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
% **18.12.2018**

C.M. No. 11717/2015

1. Since the acquisition proceedings in question pertain to the Rohini Residential Scheme, in view of the order dated 18th October, 2016 of Supreme Court in *Rahul Gupta v. Delhi Development Authority*, no interim order can be passed in relation thereto.

2. Accordingly, interim order passed on 10th July, 2015 is vacated and C.M. No. 11717/2015 is dismissed.

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3. The prayers in the present petition read as under:

“a) Issue a writ, of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition with respect of 2 bigha 7 biswas of land comprised in khasra nos 57/720(0-11), 587/16(1-16) situated in the revenue estate of village Prehlad Pur Bangar, Delhi having lapsed and further quashing the impugned notification No. F.11(19)/01/L&B/LA/20112 dated 21.03.2003 issued under section 4, Notification No. F.11(15)/04/L&B/LA/28227 dated 19.03.2004 issued under section 6 of the Land Acquisition Act, 1894 and the Award no. 6/2005-06 with respect to 2 Bigha 7 Biswas of Land comprised in Khasra nos. 57//20(0-11), 58//16(1-16) situated in the revenue estate of village Prehlad Pur Bangar, Delhi.

AND

b) Issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the physical possession and enjoyment of the Petitioners with respect to 2 Bigha 7 Biswas of Land comprised in khasra nos. 57//20(0-11), 58//16(1-16) situated in the revenue estate of village Prehlad Pur Bangar, Delhi.

c) Award costs of the writ petition in favour of the petitioner;”

4. In response to the notice issued in the petition, the Land Acquisition Collector (North) has filed a counter affidavit dated 2nd November, 2015.

Paras 4 and para 7 thereof read as under:

“4. That the present writ petition is liable to be dismissed as the possession of the lands falling in khasra number 57//20 (4-16) which includes the land falling as the

subject matter of the present writ petition i.e 57//20 min (0-11) and 587/16 (1-16) was duly taken way back on 31.8.2005 on the spot and handed over to the DDA and the compensation was also paid to the recorded owner/s way back in 2005- 06 and 2014 also. Thus the present writ petition is devoid of any cause of action and the same is liable to be dismissed. The copies of the relevant documents pertaining to the payment of compensation are annexed herewith as Annexure R -1 (colly).

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7. That it is submitted that the lands of village Prehlad Pur Bangar were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The Award was also passed vide Award No. 6/2005-06 dated 12.7.2005 and the compensation was duly paid to the other recorded owners of the said khasra number. It is further submitted that after the possession was taken of the lands passed under the said Award from the petitioners herein, the acquisition proceedings became complete, final and binding as the petitioners thereafter never challenged the same before any Court of law.”

5. Learned counsel for the Petitioners refers to the counter affidavit filed by DDA and the ‘*kabza-karwai*’ enclosed therewith to urge that the Petitioners have retained possession of an extent of 1 bigha 16 biswa in Khasra No.58//16. According to him they have received compensation only in respect of 11 biswas in Khasra No.57/20 min.

6. Learned counsel for LAC, on the other hand, submits that the Petitioners made no effort to seek compensation in respect of the land which they claim

to be in possession of.

7. When the counsel for the Petitioners was asked what steps he took after the date of the Award to seek compensation, he stated that after the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 became operational, a fresh cause of action arose and therefore the Petitioner has filed the present petition.

8. The above response does not answer the question of laches. Despite being aware of the land acquisition proceedings, which culminated in Award No. 6/2005-06 and of compensation having been paid only in respect of one portion of the land but not in respect of the other, the Petitioners appear to have made no effort for at least ten years after the date of the Award i.e. 12th July, 2005 to approach the Court for relief

9. The Court is not satisfied therefore that the Petitioners have been able to give a satisfactory explanation for the inordinate delay in approaching the Court for relief. The petition is, accordingly, dismissed on the ground of laches.

S.MURALIDHAR, J

SANJEEV NARULA, J

DECEMBER 18, 2018

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