

\$~51, 52 & 53

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

% *Date of Judgment: 3rd August, 2018*

+ W.P.(C) 9988/2015
STEELCRETE PRIVATE LIMITED Petitioner
versus
UNION OF INDIA & ORS Respondents

+ W.P.(C) 10285/2015
APEEJAY PRIVATE LIMITED Petitioner
versus
UNION OF INDIA & ORS Respondents

+ W.P.(C) 9992/2015
APPEJAY HOUSE PVT. LTD. Petitioner
versus
UNION OF INDIA & ORS Respondents

Present : Mr. Randhir Jain and Mr. Bhoop Singh, Advocates for petitioners in all items.
Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate for L&B/LAC alongwith Mr. Gopal Banik, DEO, LAC (South-East) in all items.
Mr. Rohit Jain & Ms. Madhu Sweta, Advocates for R-2/NHAI in all items.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Three identical writ petitions have been instituted by the petitioners under Article 226 of the Constitution of India seeking identical directions from this Court, which we reproduce below :

“(i) issue a writ of mandamus or any other appropriate writ order or direction thereby directing the respondent

no.1 and 2 to initiate fresh acquisition proceedings for the demarcated land of the petitioner, since the land is being used by the respondent no.1 & 2.

(ii) issue a writ of mandamus or any other appropriate writ order or direction thereby directing the respondent no.1 and 2 to produce all relevant record in respect to the acquisition of land of the petitioner before the respondent no.3 and 4;

(iii) issue a writ of mandamus or any other appropriate writ order or direction thereby directing the respondent no.3 and 4 to examine the claim of the petitioner, which they shall be refiling after the acquisition, after going through the relevant records produced by respondent no.1 and 2 and thereafter award the compensation as per law;”

2. These matters have been heard separately but are being decided by a common order.
3. For the sake of convenience, facts of W.P.(C) 10285/2015 are being noticed for disposal of the present writ petitions.
4. The petitioners have raised a building in three parts viz. basement, first floor and second floor on the property as detailed below :

S.No.	Property No.	W.P.(C)
1.	B-II/40, Mohan Cooperative Industrial Estate, New Delhi	9988/2015
2.	B-II/41, Mohan Cooperative Industrial Estate, New Delhi	10285/2015
3.	B-II/42, Mohan Cooperative Industrial Estate, New Delhi	9992/2015

5. It is the case of the petitioners that at the instance of Delhi Metro Rail Corporation part of their land was acquired in the year 2007 under the

Land Acquisition Act, 1894. The petitioners challenged the acquisition proceedings by filing writ petitions being W.P. (C) 235/2010, 234/2010 & 233/2010. The NHAI has admitted in their counter affidavit that the land was acquired for construction of service road, footpath and drainage. The writ petitions being W.P. (C) 233/2010 and W.P. (C) 234/2010 were dismissed by a common order dated 16.04.2010 passed by this Court, which reads as under:

“We are now informed that the Special Leave Petition being SLP (Civil) No.3469/2009 filed against the decision of this court in **Lal Mani Jain Vs. Union of India; 2009 (10)AD (Delhi) 1** has been dismissed by the Supreme Court on 5.4.2010. It was already stated by learned counsel for the petitioners on 18.2.2010 that the present cases are fully covered by that decision in **Lal Mani Jain’s** case and thus the challenge to that extent does not survive. The only additional plea which was stated to be raised, and as recorded on 18.2.2010, was that no notice had been served on the petitioners herein under Section 3(E)(1) of the National Highways Act, 1956. Learned counsel for the respondent states that to obviate any difficulty in this behalf notices have now been served in March, 2010 giving the statutory period before taking possession.

Petitioners can also avail of the benefit of the statutory period. No further orders are required in these petitions. The petitions accordingly stand dismissed with the aforesaid observations.”

6. We are also informed that identical placed persons had also filed a SLP, which was dismissed. The petitioners had also filed separate writ petition being W.P. (C) 6294/2012 to challenge the notice.
7. Counsel for the petitioners submits that although the petitioners have prayed for issuance of fresh acquisition proceedings but at this stage,

the petitioners would be satisfied if a direction is issued to respondents to release the compensation payable to them as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as the '2013 Act').

8. Counsel for the respondents submits that the petitioners would not be entitled to any compensation, as the compensation was offered to the petitioners but they did not come forward to accept the same. Additionally, counsel for NHAI submits that the compensation has been determined and paid to the LAC in terms of the NHAI Act and it is open for the petitioners to approach the office of LAC and claim the same in accordance with law.
9. At this stage, Mr. Randhir Jain, counsel for the petitioners submits that the petitioners would approach the office of LAC for release of compensation and in case, petitioners are aggrieved by any order so passed, they would assail the same in accordance with law.
10. Without expressing any opinion on the merits of the matters, it would be open for the petitioners to approach the office of the LAC to seek release of compensation. If the petitioners approach the respondents, we hope that the request of the petitioners would be considered expeditiously.
11. In above terms, the writ petitions stand disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

AUGUST 03, 2018/ck