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

+ **W.P.(C) 4956/2019 & CM 22051/2019 (stay)**

GURBAX SINGH

..... Petitioner

Through

Mr. P Chakarborty, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through

Mr. Yeeshu Jain with Ms Jyoti Tyagi,
Advocates for LAC/L&B

Mr. Sandeep Tyagi with Ms. Bakshi
Vinita, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

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15.05.2019

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

“i. Issue a certiorari/any other writ/order/direction of the similar nature declaring the acquisition with respect to plot number 29 in (100 sq2) which is half of (200 sq2) and plot number 27 measuring (200 sq2) with municipal number WZ-407/1E and WZ-406/5, Janak Park Extension comprised in Kh.No. 1462 lapsed and further quashing the impugned notification F.4 (106/63-L&H) dated 6.07.1966 issued under Section 4 and notification number F.4 (106/63-L&H) dated 05.12.1966 issued under section 6 of the land acquisition act of 1894 (the old act) and the award number 2177 of 1970 (supplementary) with respect to the plots mentioned above and comprised in Kh.No. 1462 of village Tihad, New Delhi.

ii. To issue a writ of mandamus or any other writ order or direction to the respondents to handover the possession of the plots number 29 (B) (WZ-407/1(B)) in the Municipal records, in the interest of fair prayer and justice.

iii. To restrain the respondents from creating any third party interest or utilized the land purchased by the petitioners for any purpose.”

2. In para 4 of the writ petition it is stated:

“The petitioner is a citizen of India and has no other residential or commercial property in Delhi except plot No. 29-B (WZ-407/1E (B) in Jank Park Extension, New Delhi which is a regularized unauthorized colony but the plots were left-out un-regularized but subsequently regularized after acquisition 2177 of 1970 (Supplementary).”

3. In paras 8.1 and 8.2 of the writ petition, the facts relevant to a connected W.P. (C) 4952 of 2019 (pertaining to Plots 27 and 29 of Janak Park Extension) have been set out, perhaps inadvertently. What however is relevant is that it is stated that a notification under Section 4 of the Land Acquisition Act (‘LAA’) was issued on 6th July 1966 for acquiring the land in question for the public purpose of ‘Planned Development of Delhi’. This was followed by declaration under Section 6 LAA issued on 5th December 1966. The impugned Award No.2177 (supplementary) was passed on 10th March 1970.

4. Further, as per the demarcation report dated 10th May 2013, Khasra No.1462 was in Janak Park Extension and the area of 16 Biswa of the said Khasra “was

not taken over being built up. The land of the petitioners form part of 16 Biswa mentioned above.” It is stated that neither Smt. Raj Rani nor her successors from whom the present Petitioner purchased the plots by GPA were paid compensation for the 16 Biswa, neither was compensation deposited in the Court as provided under Section 31 LAA. After the Respondents raised objections to the Petitioners carrying out construction/reconstructions on the subject land, they filed W.P(C) Nos. 9651/2005 and 9782/2005 which were disposed of by a common order of this Court dated 6th March 2006.

5. Thereafter, the petition straightaway refers to the passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 9'the 2013 Act') and prays for a declaration that the acquisition proceedings are deemed to have lapsed.

6. As already noted, in Para 4 the Petitioner states that the land in question forms part of a regularized unauthorized colony. This Court has in a series of orders, consistently held that where the property in question is part of an unauthorized colony, no relief under Section 24 (2) of the 2013 Act can be granted. The legal position has been summarized by the Court in ***Mool Chand v. Union of India 2019 (173) DRJ 595 DB*** where it was held in paragraphs 48, 49 and 50 as under:

“48. The third aspect of the case is that the Petitioner admits that the land in question is part of an unauthorised colony. The very basis for seeking regularisation of an unauthorised colony is that it is located on land which belongs either to the public or to some

other private parties. The Petitioners would therefore not have the locus standi to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularisation on the basis that they are in unauthorised colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19th December 2018 in WP(C) No.190/2016 (*Harbhagwan Batra v. Govt. of NCT of Delhi*) and order dated 8th January 2019 in WP(C) No.10201/2015 (*Gurmeet Singh Grewal v. Union of India*) negatived similar pleas by the Petitioners who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.

50. In a decision dated 10th January 2019 in W.P. (C) 3623 of 2018 (*Akhil Sibal v. Govt. of NCT of Delhi*) this Court observed in this context as under:

“18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premise on which such regularization is sought is that these constructions have been erected on public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets contradicted as some of them try to seek a declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable.”

7. The above decision has been followed and the legal position has been reiterated by this Court in an order dated 25th January, 2019 in W.P.(C) No.3438/2015 (*Krishna Devi v. Union of India*). Even where the land stands mutated in favour of the Petitioners and they have put up structures, the fact that they have joined the other residents in making a joint application for regularisation of the unauthorised colony in question, would mean that they cannot now seek a declaration that the land acquisition proceedings have lapsed. Having elected to seek regularisation, they cannot reprobate and seek invalidation of the land acquisition proceedings. They must follow the remedy they have opted for earlier to the logical end.

8. Consequently, the reliefs prayed for in the petition cannot be granted. The writ petition and the application are dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 15, 2019

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