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

+ **W.P.(C)7271/2019 & CM 30260/2019 (stay)**

RAMESH DEVI & ORS.

.....Petitioners

Through: Mr V. Elanchezhian, Mr Rashid Azam, Mr Vivek and Mr Mazar Anis, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Abhay Prakash Sahay and Ms Indira Goswami, Advocates for UOI. Mr Yeeshu Jain, Standing Counsel for GNCTD with Mr Siddharth Panda and Ms Jyoti Tyagi, Advocates. Mr Sanjay Singh for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER
08.07.2019

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CM Appl.Nos. 30261/2019 & 30262/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.

W.P.(C)7271/2019 & CM 30260/2019 (stay)

2. Eight residents of Village Nangli Sakrawati have approached the Court by way of the present petition, *inter alia*, to question the land acquisition proceedings culminating in the Award No.12/2008-09 dated 11th February, 2009, in terms of which the lands in Khasra Nos. 128, 129, 130 and 131 located in Village Masudabad, South West District, Delhi stood acquired under Section 11-A of the Land Acquisition Act, 1894 ('LAA'). The Petitioners have also challenged the notices issued by the Competent Authority, Land Acquisition ('CALA')/Additional District Magistrate

(South-West) on 25th June, 2019 announcing the handing over of the land in question to the concerned department for the UER-II project. They also questioned the order issued by the CALA/ Land Acquisition Collector/ Additional District Magistrate, South West District ('LAC/ADMSW') on 11th June, 2019 rejecting the objections of the Petitioners to the notice issued under Section 3-A of the National Highways Act, 1956 ('NHA') notifying the lands in question for acquisition for the construction of the NH-344M as part of the Urban Extension Road (UER)-II Project.

3. At the outset, it requires to be noticed that this Court by a detailed separate order passed today in W.P.(C) No.4697/2014 (*Sonu v Government of NCT of Delhi*) has rejected the challenge to the aforementioned award dated 11th February, 2009 passed under Section 11-A of the LAA. It has rejected the plea of the said Petitioners questioning the legality and validity of the notice issued by the NHAI under Section 3-A of the NHA and the consequent actions taken rejecting the objections filed by the said Petitioners to the said notice. This Court has in the said order explained how the said notice under Section 3-A of the NHA in respect of the land that already stood acquired under the aforementioned award dated 11th February, 2009, and which vested in the GNCTD was perhaps misconceived to that extent. It has also recorded the statement made on behalf of the LAC/L&B that there is no legal impediment in the GNCTD handing over the land in question to the NHAI for the UER, Phase-II Project once it was taken possession of free of all encroachments.

4. The said order also notes the fact that on the lands in question there is an

unauthorized colony today by the name of Amar Vihar which figures at Serial No. 1371 (Registration No.1549) in the list of unauthorized colonies on the website of the Department of Urban Development, Government of NCT of Delhi and in respect of which a separate of provisional regularization has been issued. This Court has, in its own judgment in ***Mool Chand v. Union of India 2019 (173) DRJ 595 (DB)*** held that no relief of lapsing of land acquisition proceedings under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 ('2013 Act') can be granted in respect of lands forming part of an unauthorised colony awaiting regularisation. It has been explained by this court in *Sonu v. GNCTD (supra)* that the said reasons would equally apply for rejecting the challenge to the land acquisition proceedings culminating in the Award dated 11th February 2009 under Section 11-A of the LAA. For the same reason, the present petition requires to be dismissed as well.

5. It may be noted that by another order passed today this Court has dismissed W.P.(C) No. 6927/2019 (***Jaggo Devi v Additional District Magistrate, South West District***) where similar reliefs were sought.

6. Nevertheless, the Court heard the arguments separately in the present petition. Mr V. Elanchezhian, learned counsel appearing for the Petitioners drew the attention of the Court to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015 ('ROD Order, 2015) which was published in the Gazette of India on 28th August, 2015. He referred to para 2

of the said ROD Order whereunder it is stated that the provisions of the 2013 Act would apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act. According to him, this order would equally apply to the lands notified for acquisition under the 2013 Act located in Delhi as well. He referred to the Fourth Schedule of the 2013 Act which refers to the NHA as well.

7. The reference to the ROD Order, 2015 in the context of the present case is, in the considered view of the Court, not helpful to the Petitioners at all. As far as they are concerned, the land in question to which they lay claim stood acquired under the Award dated 11th February, 2009 passed under the LAA, which incidentally does not figure in the Fourth Schedule to the 2013 Act. As far as the Petitioners are concerned, the documents placed by them on record are unregistered General Powers of Attorney ('GPAs'), receipts affidavits, etc. which do not confer any valid title, right or interest in the lands in question. Further, since the lands acquired form part of an unauthorized colony, the acquisition cannot be invalidated for reasons already mentioned in the judgment of this Court in *Mool Chand v. Union of India* (*supra*). In the circumstances, there is no occasion for applying the ROD Order, 2015.

8. Consequently, none of the reliefs sought in the present petition can be granted. The petition is accordingly dismissed. The pending application is also disposed of. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 08, 2019/rd