

\$~30

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

+ **W.P.(C) 2060/2016**

RAM AVATAR Petitioner

Through Mr. Abhas Mishra, Advocate

versus

UNION OF INDIA AND ORS. Respondents

Through Mr. Rajneesh Sharma, Advocate for
Respondent/LAC/L & B

Ms. Nikita Sharma & Ms. Shreya Sharma,
Advocates for Respondent No.5/DSI IDC

Ms. Monika Arora, SC with Mr. Harsh Ahuja,
Advocates for Respondent No.6/North MCD

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **11.01.2019**

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

“(a) Issue any appropriate writ, order or direction declaring acquisition proceedings w.r.t. land of petitioner measuring 30 bigha 10 biswas including those of his predecessors [whose names have borne out in the Award No. 5/98-99 dt. 07.01.1999 & 9/1999-2000 dt.24/10/1999 (Annexure P2) bearing Khasra numbers as mentioned in Annexure No. PI] as deemed to have lapsed u/s Section 24 (2) of Land Acquisition Act, 1894 and Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and/or

(b) Issue any appropriate writ, order or direction quashing Notification No. F.7(3)/98-/L&B/LA/3089 dt. 01.06.1998 & F.7(3)/98/L&B/LA/4820 dt.06/07/1998 issued u/s 6 read with Section 4 of the Land Acquisition Act and Award bearing No. 5/98-99 dt. 07.01.1999 & 9/1999-2000 dt.24/10/1999 w.r.t. land bearing khasra

numbers as mentioned in Annexure No. P-1 measuring total 30 bigha 10 biswas situated in Revenue Estate of Village-Ghoga & Bawana, North-West, N.C.T. of Delhi for being violative of Articles 14 & C 300-A of the Constitution of India as well as provisions contained Land Acquisition Act, 1894 and Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and/or

(c) Issue any appropriate writ, order or direction commanding Respondents to enter the names of petitioner including his predecessor as mentioned in Annexure P-1 whose names have borne out in the Award No. 5/98-99 dt. 07.01.1999 & 9/1999-2000 dt. 24/10/1999 (Annexure P-2)] in the relevant revenue records after declaration of these acquisition proceedings as deemed to have lapsed u/s Section 24(2) of Land Acquisition Act, 1894 and Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 w.e.f. 01.01.2014; and/or

(d) Issue any appropriate writ, order or direction commanding the Respondent No. 1 to extend benefit of Section 101 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 over to all land acquisitions made earlier under the repealed Land Acquisition Act, 1894 to the extent the State is duty bound to return the land so acquired if the same remained unutilized u/s 101;
and/or

(e) Issue any appropriate writ, order or direction commanding the answering Respondents to extend benefit of fair compensation in lieu of acquisition at the current prevailing market rates as per Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and/or

(f) Issue any appropriate writ, order or direction restraining the respondents, their officers, agents, representatives or anybody claiming through them from entering the name of govt. in the revenue records and also restraining them from dispossessing the petitioners from their settled possession over the land in dispute and changing the

nature, title and character of plot in dispute falling in revenue estates of Village-Ghoga & Bawana, North-West, N.C.T. of Delhi bearing Khasra number as mentioned in Annexure P-1; and/or

(g) Award the costs of writ petition in favour of petitioners;

(h) Pass any other/further order or orders in favour of the Petitioner as this Hon'ble Court may deem fit in the interest of justice.”

2. The present Petitioner seeks *inter-alia* a declaration that the land acquisition proceedings which culminated in Award No.5/1998-1999 dated 7th January, 1999 and 9/1999-2000 dated 24th October, 1999 subsequent to notification and declaration issued under Section 4 and Section 6 of the Land Acquisition Act, 1894 (LAA) respectively 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.

3. The case of the Petitioner is that notwithstanding the above awards the possession of the land in question continued to remain with the predecessor in interest i.e. the Petitioner's father. It is further pointed out that the land in question which was sought to be acquired for the purpose of Growth Centres has not been put to that use and has been diverted for the development of a Dairy.

4. From Annexure P-3 to the petition it is seen that arising out of the above Award No. 5/1998-99 dated 7th January, 1999 in respect of the land situated in village Gogha the Reference Court i.e. the court of learned Additional District Judge passed an order on 5th September, 2012 allowing enhanced

compensation to the interested persons. It is further seen that in para 17 of the writ petition there is an admission by the Petitioner that “in the present case even though compensation amount has been paid to the Petitioners but physical possession of the acquired land has not been taken till date as they are in continuous physical possession over their acquired land by way of making cultivation etc.”

5. The judgment of the learned ADJ granted the relief of interest, under Section 28 of the LAA at 9% p.a. for the first year “from the date of dispossession and at the rate of 15% p.a. on a difference between the enhanced compensation awarded by this Court and the compensation awarded by the LAC for the subsequently period till its date.” With the Petitioner admittedly accepting the enhanced compensation together with interest as awarded by the learned ADJ, he cannot dispute that he has been dispossessed as far as the land in question is concerned.

6. With neither condition in Section 24 (2) of the 2013 Act being fulfilled, the Court is not inclined to grant the reliefs as prayed for.

7. The petition is dismissed. The interim order dated 11th March, 2016 is vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 11, 2019

mw