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

+ **Date of Decision: 06.09.2019**

% **W.P.(C.) No. 2594/2018 and CM APPL. 10634/2018**

ANITA GUPTA

..... Petitioner

Through: Mr. Mahesh Prasad & Mr. Alok K. Prasad, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vikram Jetly, CGSC for respondent No.1/ UOI.
Mr. Naushad Ahmed Khan, ASC and Mr. Zahid Hanief & Ms. Manisha Chauhan, Advocates for respondent No.2/ GNCTD.
Ms. Sukhbeer Kour Bajwa, Advocate for respondent No.3/ DDA.
Mr. V. Balaji & Ms.Sripradha Krishnan, Advocates for respondent No.5/ LAC.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

VIPIN SANGHI, J. (ORAL)

1. The petitioner has preferred the present writ petition to assail the notification dated 28.04.1995 issued under Section 4 of the Land Acquisition Act, and subsequent declaration dated 26.04.2013 under Section

6 of the said Act, and all acquisition proceedings, including the award, if passed, in respect of Khasra No.305 admeasuring 1 Bigha and 1.5 Biswa in the revenue estate of Village Shahbad Daulatpur, Delhi on the ground that the acquisition had lapsed due to the failure on the part of the competent authority of the respondents to issue the notification/ declaration under Section 6 of the said Act within the stipulated period of one year from the date of judgment dated 21.03.2012 passed by the Supreme Court in Civil Appeal Nos. 3022-3023/2013 titled ***Prahlad Vihar Resident Association & Others Vs. Union of India & Others.***

2. The petitioner claims to be the recorded owner in respect of the aforesaid land by virtue of sale deed dated 22.05.1985 in her favour. The case of the petitioner is that the petitioner's land, along with other adjoining lands, was notified under Section 4 of the Land Acquisition Act on 28.04.1995. The notification also invoked Section 17 of the Land Acquisition Act and, consequently, the right of the petitioner to file objections under Section 5A of the Act was deprived. The declaration under Section 6 of the Act was issued on 26.04.1996. The Prahlad Vihar Resident Association and Others filed writ petition before this Court assailing the said notification under Section 4 of the Act and the subsequent declaration under Section 6 of the Act. On 09.07.2007, the writ petition being W.P.(C.) No. 3938/1996 was dismissed by this Court. The matter was carried to the Supreme Court, which rendered its decision in the aforesaid Civil Appeals. The Supreme Court quashed the declaration under Section 6 of the Act and directed the Competent Authority to invite objections under Section 5A of the Act pursuant to the notification under Section 4 of the Act dated

28.04.1995, and proceed in accordance with law. The fresh declaration under Section 6 of the Act was, however, issued only on 26.04.2013. The same was beyond the period of one year from the date of the judgment of the Supreme Court in Civil Appeals No.3022-3023/2012, which was rendered on 21.03.2012. Consequently, the case of the petitioner is that the said declaration was beyond the period of limitation prescribed by clause (ii) of the proviso to Section 6 of the Act, and the acquisition lapsed.

3. The further submission of the petitioner is that one Sunil Goel filed W.P.(C.) No. 3049/2013 to assail the fresh declaration under Section 6 of the Act dated 26.04.2013. That writ petition was allowed by this Court on 29.04.2014. The other petitions preferred before this Court were also allowed by this Court, particulars whereof are also disclosed in the petitions. Thus, the case of the petitioner is that there is no valid acquisition of the petitioner's land till date. Learned counsel further submits that no award has been made in respect of the petitioner's land and no compensation paid.

4. The respondents have filed their counter-affidavit. The DDA has stated in its counter-affidavit that the acquired land has been utilized for the purpose of Rohini Residential Scheme. In paragraph 7 of the counter-affidavit of the DDA, it is stated that as per the land record in relation to Khasra No. 305 of Village Shahabad Daulatpur, the total area admeasures 8 Bighas and 13 Biswas, out of which the physical possession of land measuring 7 Bigha 13 Biswa was handed over to the DDA by the LAC/L&B Department on 26.11.2012, which included the land against which the petitioner has claimed relief. Only 1 Bigha land of the above said Khasra

No. was not handed over to the DDA. According to the petitioner, the petitioner's land is lying vacant and has not been utilized for the purpose of Rohini Residential Scheme.

5. From the aforesaid narration, it is evident that there is no valid acquisition of the petitioner's land initiated by the aforesaid notification dated 28.04.1995 issued under Section 4 of the Land Acquisition Act. The declaration under Section 6 issued on 26.04.1996 was quashed by the Supreme Court, as aforesaid, and the subsequent notification issued on 26.04.2013 was barred by limitation. In fact, in W.P.(C.) No. 3049/2013 preferred by Sunil Goel (*supra*), the said notification has also been quashed. The aforesaid being the position, the petitioner would be entitled to return of her land, provided the same has not been utilized for the planned development of Delhi, i.e. for the purpose of the Rohini Residential Scheme.

6. We, therefore, dispose of this petition with direction to the respondents to ascertain, firstly, the title of the petitioner and her right to claim return of her land, or compensation in lieu thereof. In case the petitioner's title is verified in her favour, the respondents shall thereafter proceed to examine and find out whether, as a matter of fact, the petitioner's land has been utilized for development of the Rohini Residential Scheme in any manner whatsoever. If it forms part of the said development, the respondents shall be bound to pay compensation to the petitioner at the market rate prevalent on the date on which possession of the petitioner's land was taken, in accordance with law prevalent on the said date. However, in case the petitioner's land has not been utilized in the Rohini

Residential Scheme, and the same is vacant, the same shall be returned to her. The respondent shall communicate to the petitioner their finding with regard to the petitioner's title and the status of the petitioner's land, i.e. whether it forms part of the Rohini Residential Scheme, or not, within six weeks from today. In case the petitioner is found entitled to compensation in terms of our order, the respondents shall thereafter proceed to determine the same within three months thereafter.

7. The petition stands disposed of in the above terms.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 06, 2019

B.S. Rohella

