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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3351/2016

KRISHAN KUMAR

..... Petitioner

Through Mr. P.S. Dalal, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

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

Ms. Rukhmini Bobde with Mr.
Nivesh Kumar for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

09.07.2019

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

“(I) Issue writ of DECLARATION and/or any other appropriate Writ, Order or Direction in the like nature declaring the impugned acquisition proceedings commenced vide notification under Section 4 of Act, 1894 bearing notification No. F.01 (29)/1 996/L&B /LA/1 1394 Dated 27.11.1999 under Section 4 of LA Act, 2013; declaration under Section 6 of the Act resulting in Award no. 14A/2002-03 vis-à-vis land admeasuring (01-06) comprised in Khasra No. 55/2 situated in revenue estate of Village Prehladpur Bangar, Delhi;

(II) Consequently issue writ of CERTIORARI quashing the impugned acquisition proceedings commenced vide notification No. F.01 (29)/1996/L&IB/LA/1 1394 Dated 27.11.1999 under Section 4 of LA Act, 2013; declaration under Section 6 of the

Act resulting in Award no. 14A/2002-03 vis-à-vis land admeasuring (01-06) comprised in Khasra No.55/2 situated in revenue estate of Village Prehladpur Bangar, Delhi;

(III) Issue MANDAMUS and/or any other Writ, Order or direction in the like nature commanding the respondents not to interfere with and/or obstruct the Petitioner and his co-owners in peaceful enjoyment of the subject land i.e. land admeasuring (01-06) comprised in Khasra No. 55/2 situated in revenue estate of Village Prehladpur Bangar, Delhi.”

2. The background facts are that the land in question i.e. Khasra No. 55/2, located in the revenue estate of Village Prehladpur Bangar, Delhi was notified under Section 4 of the Land Acquisition Act (LAA), 1894 on 27th October 1999 for acquisition. This was followed by a declaration under Section 6 of LAA on 3rd April 2000 confirming that the acquisition was for the public purpose of the “Rohini Residential Scheme.” Thereafter, the Land Acquisition Collector (LAC) passed the impugned Award No. 14/2002-03 and supplementary Award No. 14A/2002-03 dated 13th March 2003.

3. It is stated in the writ petition that the Petitioner is the co-owner of the subject land which was mutated in favor of the Petitioner and one Ranbir Singh by Shri Parmanand on 16th July 2008. It is stated that Shri Ramphal who was the other co-owner expired on 25th March 2015. It is stated in the petition that physical possession of the subject land is still with the Petitioner and no compensation has been paid to him or his predecessors-in-interest.

4. In the counter affidavit filed by the LAC, it is stated that physical

possession of the land in Khasra No. 55/2(4-16) was taken over on 9th May 2000 and 21st June 2002. It is submitted that the Petitioner is not the recorded owner of the land in question. On the aspect of compensation, it is stated that compensation was paid to the recorded owners and the remaining compensation was deposited in the Court of the Additional District Judge (ADJ) under Sections 30/31 of the LAA.

5. In the counter affidavit filed by the DDA it is stated that the subject land was acquired by the LAC and was handed over to the DDA on 9th May 2000 and 21st June 2002 respectively. It is further stated that the subject land is lying vacant and the Petitioner is not in possession of the said land. It is stated that compensation in respect of the Rohini Residential Scheme Phases 4 and 5 was released by the DDA to LAC between 1999 and 2003. It is stated in para 5 of the counter affidavit that as per Statement 'A' the share of Shri Parmanand, who is the father of the Petitioner has been sent to the court of the ADJ under Section 30&31 vide cheque nos. 533606 and 533642 dated 25th February 2004 and 20th March 2004 for a sum of Rs. 2,74,081/- and Rs. 5,48,060/-.

6. In the rejoinder filed by the Petitioner to the counter affidavit of the LAC it is stated that the possession of the subject land was not taken and still lies with the Petitioner. On the aspect of compensation, it is stated that only 70/96 share compensation was sent and disbursed by the LAC as per their statement filed by them in para 9 of the counter affidavit of Respondents 4 and 5.

7. The assertion of the Petitioner that he is in possession of the subject land is to no avail after the orders dated 10th March 2015, 28th January 2016 and 18th October 2016 of the Supreme Court in SLP(C) No. 16385-16388 of 2012 (*Rahul Gupta v. Delhi Development Authority*). In the last mentioned order, the Supreme Court has ordered that if possession is not handed over within 10 days of lands acquired for the Rohini Residential Scheme to the DDA, then the DDA would be deemed to be in possession thereof after the expiry of that period.

8. In the course of the hearing, it transpired that Pehlادpur Bangar is one of the unauthorized colonies in respect of which a provisional regularization certificate has been issued. On the website of the Department of Urban Development of the GNCTD, Pehlادpur Bangar figures at S.No.1505 in the complete list of unauthorized colonies in respect of which tentative application forms and tentative layout plans had been submitted and which are awaiting regularization. Clearly, therefore, the property in question forms part of an unauthorized colony awaiting regularisation.

9. 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.”

10. 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*). As clarified in those orders, the dismissal of the present petition will not come in the way of the Petitioner pursuing the claim for regularisation of the unauthorised colony in question.

11. Consequently, the reliefs prayed for in the petition cannot be granted. The writ petition is dismissed. The interim order passed on 25th April 2016 which stood confirmed on 8th November 2017 is hereby vacated.

S.MURALIDHAR, J.

TALWAT SINGH, J.

JULY 09, 2019

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