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

+ **W.P.(C) 3362/2016**

SATISH JINDAL Petitioner
Through Mr. Bhagat Singh, Advocate

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ANR. Respondents
Through Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha & Mr. M.S.Akhtar,
Advocates

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
22.07.2019

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

- a) Issue an appropriate writ, order or direction declaring the Award dated 19.03.15 (Award No. 6/2014-15/DC/N) and all consequential proceedings initiated and/or pending thereto to be *nullis juris*, non est, void ab-initio, illegal and bad in law;
- b) Quash the Award dated 19.03.15 (Award No. 6/2014-15/DC/N) and all consequential proceedings initiated and/or pending in pursuance thereto;
- c) Stay the operation and execution of Award dated 19.03.15 (Award No.6/2014-15/DC/N) and all consequential proceedings pending thereto;
- d) Pass ad interim ex parte orders in terms of Prayer (c) hereinabove;

e) Award costs of the present petition in favour of petitioner and against the respondent(s);

2. At the outset it requires to be noticed that while issuing notice in the petition on 26th April, 2016 this Court directed that there would be a stay of operation and execution of the Award dated 19th March, 2015 in so far as the Petitioner's land was concerned.

3. The narration in the petition is that the Petitioner with requisite permission from the competent authority acquired "rights, title and interest" in regard to 1 Bigha and 4 Biswas of land in Khasra No.247 (min) in Village Shahabad Daulatpur, Delhi (hereafter the land in question) under registered sale deed dated 16th October, 1986. On 28th April, 1995 a notification was issued under Section 4 & 17 of the Land Acquisition Act, 1894 LAA for acquisition of 1852 Bighas and 6 Biswas of land in Village Shahabad Daulatpur, which included the Petitioner's land. This was followed by a declaration dated 26th April, 1996 under Section 6 LAA. It is stated that of the above extent of land an award dated 24th April, 1998 was passed only in respect of 1126 Bighas and 1 Biswas of land. It is contended that there was no award qua the Petitioner's land. According to the Petitioner even possession of his land was not taken.

4. It is stated that on 26th April, 2013 a fresh declaration under Section 6 LAA was issued on the basis of the earlier notification dated 28th April, 1995 and this declaration included the Petitioner's land. The case of the Petitioner is that no fresh declaration on the basis of the earlier notification

could be issued after the statutory lapse of the land acquisition proceedings.

5. On 3rd March, 2015 the Petitioner received a notice dated 23rd February, 2015 issued under Section 9 of the LAA. He immediately filed objections questioning the legality of the said move.

6. This was followed by an Award passed on 19th March, 2015 acquiring the Petitioner's land. According to the Petitioner, he came to know of the Award only in December, 2015 and that too from the official website of the Respondent. It is on the above basis the Petitioner has filed the present petition on 4th April, 2016 contending that the Award is bad in law primarily on the ground that it was passed beyond two years from the date of the declaration under Section 6 LAA. According to the Petitioner the original declaration was issued on 26th April, 1996. Since no Award was passed till 25th April, 1998, and possession of the Petitioner's land was also not taken, the entire land acquisition proceedings qua his land stood lapsed, on that date i.e. 25th April, 1998. It is contended that thereafter the Respondent lacked the legal authority or jurisdiction to issue a fresh declaration qua the same land.

7. In response to the notice issued in the petition the LAC (North-West) has filed a counter affidavit on 29th January, 2018. It is pointed out that the land in question was originally notified for acquisition under Sections 4(1) and 17 of the LAA on 28th April, 1995 for the public purpose of the Rohini Residential Scheme-IV, Delhi. The said acquisition proceedings were challenged by various interested persons before this Court. W.P

No.3938/1996 titled ***Prahlad Vihar Resident Association & Ors. vs. Union of India & Ors.*** sought to challenge the said acquisition proceedings in respect of lands which included land in Khasra No.247. An interim order was passed in the said writ petition protecting the possession of the Petitioners therein. The stay order passed by the Court continued till 9th July, 2007 when the writ petitions were dismissed. The aggrieved land owners approached the Supreme Court and in their SLPs/Civil Appeals an interim order was passed on 3rd August, 2007. Ultimately in ***Ram Dhari Jindal Memorial Trust v. Union of India & Ors AIR 2012 SC 1878*** the Supreme Court quashed the notifications issued under Section 17(1) and 17 (4) and the declaration under Section 6 LAA with liberty to the Respondent to invite fresh objections under Section 5A of the LAA. Thereafter the competent authority issued a fresh declaration under Section 6 LAA on 26th April, 2013.

8. The Respondent LAC has referred to the observations of the Supreme Court in ***Abhey Ram v. Union of India (1997) 5 SCC 421*** which was followed in ***Om Prakash v. Union of India (2010) 4 SCC 17*** holding that stay of proceedings in respect of some of the lands would be applicable to other lands covered by the same notification. It is further pointed out that the Khasra Number in question covers several Bighas and the Petitioner had not clarified in which part of this Khasra No. 247 his land is located. It is further pointed out that with the land being required for the public purpose of the Rohini Residential Scheme, the acquisition serves a larger public purpose. It is clarified that since possession of the subject land admittedly could not be taken due to the stay orders passed, compensation could also not be paid.

9. No rejoinder has been filed by the Petitioner to the LAC's counter affidavit. As regards the Petitioner's claim of continuing to be in possession of the land in question is concerned, it must be noted at the outset that land is required for the public purpose of the Rohini Residential Scheme. The orders of the Supreme Court dated 10th March, 2015 28th January 2016 and 18th October, 2016 in SLP(C) No. 16385-16388 of 2012 titled ***Rahul Gupta v. Delhi Development Authority & Ors.*** are relevant in this context. The Supreme Court has clarified that even where actual physical possession is not with the Delhi Development Authority (DDA) of lands notified for acquisition under the Rohini Residential Scheme, possession of such land ought to be surrendered to the DDA by such persons within ten days of the order dated 18th October, 2016 failing which the DDA would be deemed to be in possession thereof. Admittedly since the Petitioner has not surrendered possession of the land in question to the DDA within ten days of the aforementioned order, he can no longer contend that he continues to remain in actual physical possession of the land in question.

10. It must be recalled that the challenge in the present petition is to the subsequent Award passed by the LAC (NW) on 19th March, 2015 pursuant to the fresh declaration under Section 6 of the LAA issued on 26th April, 2013. Admittedly, the Petitioner's land was not earlier included in the Award passed pursuant to the notifications issued under Sections 4 & 17 of the LAA on 20th April, 1995. The Respondents are right in their contention that the legal position as explained by the Supreme Court in ***Abhey Ram (supra)*** is that if a stay is granted by a Court in respect of a portion of the

lands covered by notification under Section 4 LAA, then there would be stay with regard to remaining land as well. This legal position has been reiterated in subsequent decisions of this Court as well. Illustratively reference may be made to the decision in *Shanti India Private Limited v. Lt. Governor 2007 (138) DLT 511*. This legal position has been explained even recently by this Court in *Shivi Talwar v. Govt. of NCT of Delhi 2019 (174) DRJ 390 (DB)*.

11. Consequently, the Court does not find merit in the challenge by the Petitioner to the Award dated 19th March, 2015. The writ petition is accordingly dismissed.

12. The interim order dated 26th April, 2016 is hereby vacated. There shall be no order as to costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 22, 2019

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