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

+ **W.P.(C) 2844/2015 & CM APPL. 11332/2015**

HARI KRISHAN & ORS. Petitioners

Through: Ms. Easha Mazumdar, Advocate

versus

LT. GOVERNOR OF DELHI & ORS. Respondents

Through: Mr. Ajay Verma, Advocate with Mr. Gurmehar S. Sistani and Mr. Sumit Mishra, Advocates for DDA.
Mr. Wajeeh Shafiq, Standing Counsel for the Delhi Waqf Board with Ms. Akanksha Raha and Ms. Swati Tomar, Advocates.
Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate for LAC/L&B.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

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ORDER
25.03.2019

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

“(A) Declaration under Section 24(2) of the Right to Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 that the Award bearing No. 12/2005-2006, Declaration u/s 6 No. F.11(11)/2004/L&B/LA 28281 dated 19/03/2004 and Notification No. F.11(19)/2001/L&B/LA/20112 dated 21/03/2003 under section 4 of the Land Acquisition Act 1894, thereby declaring the acquisition of lands bearing Kh. Nos. 18/5(4-16) and

18/6(4-16) of Vill: Barwala, Delhi to be deemed to have been lapsed;

(B) Writ of Certiorari or any other appropriate writ, order or direction in the nature thereof, declaring that the Notification No. F.11(19)/2001/L&B/LA/20112 dated 21/03/2003 u/s 4 of the Land Acquisition Act, 1894 and Declaration u/s 6 bearing No. F.11(11)/2004/L&B/LA 28281 of the said Act dated 19/03/2004 and the Award bearing no. 12/2005-06 is being deemed to have lapsed;

(C) Award appropriate costs in the facts and circumstances of the case;

(D) Any other or further order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case be passed/ issued in favour of the Petitioner.”

2. The case of the Petitioners is that they are lease holders by way of perpetual lease for a period of 99 years from 18th June 1964 to 20th June 2063 and are the Legal Heirs of Late Shri Chattar Singh. It is stated that the Delhi WAQF Board is the owner of the land in question. The Petitioners claim that they are in actual physical possession of the land in question and have neither been offered nor been paid compensation till date. They state that even late Shri Chattar Singh, the predecessor-in-interest of the Petitioners and the Lessee was neither offered nor paid compensation. Accordingly they claim that they are entitled to the relief under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act').

3. As far as the challenge to the land acquisition proceedings in respect of lands acquired by the Rohini Residential Scheme in Village – Barwala in

Delhi is concerned, an earlier batch of writ petitions was dismissed by a Division Bench of this Court in Writ petition civil ***Naresh Kumar v. Union of India*** on 17th April 2013. The SLPs against the said order were dismissed by the Supreme Court on 3rd February 2015.

4. The stand of the LAC in the counter affidavit is that “the possession of the above mentioned land was duly taken on dated 06.10.2005 and compensation with respect to said land was sent to ADJ u/s 30 and 31 of the Old Land Acquisition Act, 1894.” It is further stated that the “land owners whose lands have been acquired vide the above said award, have also assailed the award for enhancement of compensation before the Hon'ble High Court and also before the Hon'ble Supreme Court of India.”

5. The Wakf Board (Respondent No.5) has filed a separate counter affidavit stating that “the acquisition proceedings held in respect of the Waqf properties have not been completed as neither the possession of the same have been taken over nor the compensation has been paid.” It is further averred as under:

“10.It is further submitted that the petitioners in this case have no locus to file the present petition and the Answering respondent reserves its right to take appropriate legal action against the Petitioners as per the law.

11. It is respectfully submitted that the property in question along with other Waqf properties, in respect of which the present acquisition proceedings were initiated be denotified and the same stand transferred in the name of Delhi Waqf Board. It is further submitted that all consequential benefits including compensatory benefits, be allowed to be transferred in favour of

the Delhi Waqf Board, excluding any other claimants including the Petitioners.”

6. No rejoinder has been filed by the Petitioners to the above counter affidavits.

7. Inasmuch as the lands were acquired for the Rohini Residential Scheme, on the question of actual physical possession, a reference needs to be made to the orders passed by the Supreme Court on 10th March 2015, 28th January 2016 and 18th October 2016 in SLP (C) Nos. 16385-88/2012 (***Rahul Gupta v. Delhi Development Authority***) and in the interlocutory applications (‘I.As’) in the said SLPs. Although, in the order dated 10th March 2015, the Supreme Court referred to the acquisition of land for the Rohini Residential Scheme in Sectors 34, 35, 36 and 37, in the subsequent order dated 18th October 2016, it was made clear that the effect of the said order of the Supreme Court was to be applied to all the lands acquired for the Rohini Residential Scheme. In the order dated 18th October 2016 while disposing of various I.As in the aforementioned SLPs, the Supreme Court directed as under:

“Heard Mr. V. Giri, learned Senior Counsel appearing for the applicants and perused the interlocutory applications.

In view of the order dated 10.03.2015, passed by this Court in SLP (C) Nos. 16385-16388 of 2012, and a subsequent order dated 28.01.2016, passed in the same special leave petitions, the interim order passed by the High Court of Delhi on 04.3.2015 in W.P.(C) No. 1915/2015 (Annexure A-4 in the instant interlocutory applications), is liable to be vacated, and is accordingly vacated.

We grant liberty to the Delhi Development Authority to produce a copy of this order **in all matters, pertaining to land acquisition relating to the Rohini Residential Scheme**, pending before the High Court, for vacation of similar interim directions.

It is made clear that in case the applicants have re-entered possession or otherwise, they shall vacate the said land and hand over its possession forthwith to the Delhi Development Authority, failing which it shall be assumed to be in possession of the Delhi Development Authority, after the expiry of ten days from the passing of the instant order.

With the aforesaid directions, these interlocutory applications stand disposed of.” (emphasis supplied)

8. These directions were repeated in the remaining I.As which were disposed of on the same date i.e. 18th October 2016. In effect therefore, the position is that if anyone still in possession of lands acquired for the Rohini Residential Scheme had not surrendered possession thereof to the DDA within ten days of the order dated 18th October 2016, then the possession thereof was deemed to be with the DDA. It would no longer be open to such persons to contend that actual physical possession of the lands in question remains with them.

9. This legal position has been clarified by this Court in its order dated 22nd November 2018 in W.P. (C) 51118/2016 (**Jawahar Singh v. Lt. Governor**) and reiterated in the order dated 25th January 2019 in W.P. (C) 3438/2015 (**Krishna Devi v. Union of India**).

10. On the question of compensation, the Delhi Wakf Board has contested

the locus standi of the Petitioners to receive compensation. This, therefore gives rise to a disputed question which cannot be examined in the present petition. In any event, the LAC has made a reference to the Court of the learned ADJ under Sections 30-31 of the Land Acquisition Act, 1894. Apart from the fact that the claim of the Petitioners for compensation is a disputed one, this is not a case where it could be said that no compensation amount has been tendered.

11. For the aforementioned reasons, none of the reliefs sought for in the present petition can be granted, the petition is accordingly dismissed. The interim order if any stands vacated. The application is dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 25, 2019
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