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

+ **W.P.(C) 8426/2018 & CM Appl. Nos. 32346/2018 & 7012/2019**

BHAGAT RAM & SONS AND ANR. Petitioners
Through Mr. Kuldeep Sehrawat, Advocate

Versus

UNION OF INDIA & ORS. Respondents
Through Mr. Rajnesh Kr. Sharma,
Advocate for Respondent/LAC/L & B
Ms. Sukhbeer Kaur Bajwa for
Respondent/DDA

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

ORDER
13.03.2019

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1. With consent of the parties the matter is taken up for final hearing.
2. The prayers in the present petition read as under:

“(a) issue a writ/order/direction in the nature of certiorari calling for the records of the acquisition proceedings in respect of the land comprising in Khasra No. 9//2/2(3-05) & 9/2/2(3-04) situated at Village Goyla Khurd, Delhi belonging to the petitioners;

(b) issue appropriate write, order or direction declaring the acquisition proceedings in respect of the land comprising in Khasra bearing No. 9//2/2 situated at Village Goyla Khurd, Delhi having lapsed and have become inoperative after the coming into force of the Right to Fair Compensation and Transparency in

Land Acquisition, Rehabilitation & Resettlement Act, 2013;

(c) award the cost of the present proceedings in favor of the petitioners;

(d) pass any other order or relief which this Hon'ble Court may deems fit and proper in the facts and circumstances of the case in favour of the Petitioners.”

3. The background facts are that land in question i.e. Khasra No. 9/2 (180 Sq. yards) located in the revenue estate of Village Goyla Khurd was notified under Section 4 of the Land Acquisition Act (LAA), 1894 on 7th April, 2006.

4. This was followed by declaration under Section 6 of LAA on 4th April, 2007 that the land was required for the public purpose of “construction of 100 metres in under planned development of Delhi”. The Land Acquisition Collector (LAC) passed the impugned Award No. 06/2008-2009/SW on 8th October, 2008.

5. As far as the Petitioner is concerned, it is stated in the petition that he is “Khasra No. 9//2/2 in the revenue estate of village Goyla Khurd, Delhi and the colony known as Shyam Vihar,”. According to the Petitioner, he purchased the property from Shri Phool Singh and Shri Jagdish Singh in the year 2000.

6. Enclosed as Annexure P-2 collectively are the sale documents. A close scrutiny of the document shows that the property in question purportedly

was purchased through a General Power of Attorney (GPA) on 18th January 200. Apart from this not being a valid interest instrument for transfer of title, it appears that the Petitioner, having full knowledge of the status of the land in question, and without taking permission from the competent authority, in terms of the Delhi Land (Restriction of Transfer) Act, 1972 entered into the said transaction. The original recorded owner, who obviously is not the Petitioner, has not challenged the land acquisition proceedings.

7. In the CM Appl. No. 7012/2019 filed by the DDA, it is stated that the subject land had been acquired vide Award No. 6/2008-09 SW and the vacant physical possession of the land had been handed over to the DDA by LAC on 12th October 2012. It is further stated that the compensation of Rs. 10,74,56,015/- has been remitted to L&B department by the DDA as compensation for the said acquisition. The LAC has further deposited an amount of Rs. 19,06,302 vide cheque number 950524 dated 12th October 2015 in ADJ Dwarka Court under Section 30/31 of LAA against Khasra No. 9/2/2(3-05). The DDA has sought vacation of the interim order of status quo dated 13th August 2008 as the land is needed for the public purpose of the Urban Extension Road –II.

8. From the petition, therefore, it is plain that there were a series of GPAs, none of which was a legally valid document as regards ownership and title, which form the basis of the Petitioner's claim of 'ownership' of the property in question.

9. In the course of the hearing, it transpired that Shyam Nagar in Village

Goyla Khurd 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, 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 has been put up. Shyam Nagar is one of those unauthorized colonies. Clearly, therefore, the property in question forms part of the unauthorized colony.

10. 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.”

11. 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.

12. Consequently, the reliefs prayed for in the petition cannot be granted. The writ petition is dismissed. The interim order dated 13th August 2018 is hereby vacated. The applications are disposed of.

13. The next dates of hearing which are 25th April 2019 before the Registrar and 29th August 2019 before the Court stand cancelled.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 13, 2019
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