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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6399/2018 & CM 24573/2018**

M/S RAPID PROPERTIES PVT. LTD. & ANR. Petitioners

Through: Mr. Jugal Wadhwa, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Ms. Puja Kalra and Mr. Virender Singh,
Advocates for SDMC

Mr. Jagdeep Sharma, ASC for
Respondent/DDA.

Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha and Mr. MS Akhtar for
L&B/LAC

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

ORDER
23.05.2019

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1. The prayers in the petition read as under:

“A. pass an appropriate writ, direction and/or order in the nature of a Writ of Mandamus/Declaration, declaring the acquisition proceedings initiated under the Land acquisition Act, 1894 as well as the award dated 20.7.2010, passed thereunder, in respect of the plots of the petitioners, comprising of Plot no’s. 98-99, forming part of Khasra no. 78, Village Khirki, Tehsil Mehrauli, New Delhi, as lapsed in view of section 11A of the Land Acquisition Act, 1894 and the award bearing no.3/2010-2011, dated 20.7.2010, as redundant;

B. pass an appropriate writ, direction and/or order in the nature of a Writ of Mandamus, directing the Respondents not to back out from

the acquisition of the petitioner's plots and initiate fresh acquisition proceedings and pass a fresh award, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as the petitioners cannot be denied just and fair compensation for the wrongs of the respondents;

C. pass in the alternative, a writ, order or direction in the nature of a writ of Mandamus/Declaration, declaring that since even after a lapse of 8 years from the award dated 20.7.2010, the petitioners have not been paid compensation, as such in view of the last proviso of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, they are entitled to enhanced compensation, to be calculated afresh, under the said New Act, of 2013.”

2. The narration in the petition reveals that notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 17th February 1992, followed by declaration under Section 6 of the LAA on 3rd March 1992. The impugned Award No. 3/2010-2011 was passed on 20th July 2010. The reason for the said acquisition was the public purpose of redevelopment of Delhi and precisely for “protection, preservation and protection of Khirki mosque as a centrally protected monument.”

3. It is stated that the Petitioner Nos. 1 and 2 are the owners of plot Nos.98 and 99 measuring 363 sq. yards each and forming part of Khasra No.78 in village Khirki, Tehsil Mehrauli, having purchased the same by way of registered sale deeds dated 29th January 1991. Plot No.98 was purchased by Petitioner No.1

from its erstwhile recorded owner, one Shri Rajpal Singh, whereas plot No.99 was purchased by Petitioner No.2 from one Shri Jaipal Singh. Copies of the sale deeds have been annexed along with the petition. It is further stated that the names of the Petitioners have been mutated in the relevant records as being the owners of the subject land.

4. It is further mentioned that Petitioner No.2 was stopped from carrying out any ongoing construction over its plot No.99 by way of a stay order dated 25th March 1992 granted in W.P(C) 1188 of 1992. Thereafter, after the insertion of Section 20A by way of amendment dated 16th June 1992 in the Ancient Monuments and Archaeological Sites and Remains Act, 1958, the land in which the plots of the Petitioners were located was notified as a prohibited area falling within 100 metres of the Khirki mosque. It is stated that the Petitioners subsequently filed an application dated 20th March 2007 under the RTI Act enquiring about the said acquisition proceedings to which a response dated 25th July 2007 was received stating that since no award had been passed till then, no compensation could be paid for the same.

5. Another application dated 7th May 2007 was filed asking whether the Section 6 notification under the LAA could subsist after a period of 15 years to which reply dated 10th May 2007 was received stating that it was the responsibility of the MCD to maintain/beautify the mosque and they did not know about the acquisition proceedings.

6. After three years, since no further action was taken by the Respondents, the Petitioners filed another RTI application on 19th July 2010 regarding the acquisition to which a reply dated 17th August 2010 was received disclosing that an award has been passed on 20th July 2010 with regard to the subject land and compensation would be released as soon it was received by the department, and further that it was not clear if the plots of the Petitioners had been acquired or not. The Petitioners state that they never received any notice of the said award nor any copy of the same, despite filing a further RTI application dated 25th August 2010.

7. The Petitioners thereafter got a copy of the abovementioned stay order dated 25th March 1992 in W.P(C) 1188 of 1992, which was mentioned in the impugned Award. It is stated that the petition in which the said order was passed was filed by 'Prachin Mandir Naverah Shanti Sangathan Aivam Puja Sthal' and its devotees and not by other landowners. In fact, the Petitioners observed that by way of the said stay order, the Court had passed an order only with respect to one plot no.13, belonging to the Mandir, and there was no mention of the Respondents being precluded from carrying out the acquisition proceedings in respect of the remaining land in Khasra No.78.

8. Further the abovementioned writ petition was dismissed in default for non prosecution by order dated 15th December 2008. Thereafter the petition straightaway refers to the passing of the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the '2013 Act'). Reliance has also been placed on the decision of the Supreme Court in *Laxmi Devi v. State of Bihar (2015) 10 SCC 241* to contend that in a similar case, with there being an enormous delay in passing the Award after the Section 4 and 6 notifications were issued under the LAA, the authorities were not allowed to take the shield of Section 17 LAA and were directed to reacquire the land and pass a fresh award.

9. In the counter affidavit filed on behalf of the LAC, it is stated that the petition ought to be dismissed due to the inordinate delay by the Petitioners in approaching this Court for relief and challenging the impugned acquisition proceedings. It is stated that after the Section 4 and 6 LAA notifications were issued, a stay order was passed on 25th March 1992 in W.P(C) 1188 of 1992. The said petition was dismissed 16 years later on 15th December 2008. It is submitted that under Section 11A LAA, the Award has to be passed within a period of 2 years after the issuance of the Section 6 declaration on 3rd March 1992. However, with the stay being granted on 25th March 1992 in W.P(C) 1188 of 1992 which ended only 15th December 2008 the said period had to be excluded for calculating the period within which the Award had to be passed. It is contended that the LAC still had a further 106 days to pass the Award, which was duly done on 20th July 2010.

10. A short affidavit has been filed on behalf of the DDA, which states that the

Award No.3/2010-11 was passed on 20th July 2010 with the purpose of acquisition being the ‘preservation, maintenance and beautification of Khirkee mosque as a centrally protected monument under the planned development of Delhi on permanent basis.’

11. The facts in *Laxmi Devi v. State of Bihar* (*supra*) were different. Barren/agricultural land was sought to be acquired by the Government by issuing a notification in 1987. Thereafter due to lapse of the said notification, a fresh Section 4 LAA notification was issued in 1999. However, even this notification was deemed to have lapsed as there was no declaration under Section 6 LAA issued within a period of 1 year. Thereafter, another notification was issued in 2001 which was deemed to have lapsed for the same reason. The same issue arose even after another fresh notification was issued in 2004. The Supreme Court, whilst declining the plea of reversion of the subject land under Section 11-A LAA to the Petitioners therein since it already vested with the Government, set aside the original acquisition dated 18th November 1987 for non-compliance by the concerned authorities of the provisions of Section 11-A of the LAA. The State was directed to issue a fresh Section 4 notification and carry out the acquisition proceedings in accordance with law.

12. In the present case the delay in passing of the Award was due to the stay order dated 25th March 1992 passed by this Court in W.P(C) 1188 of 1992 in

respect of Khasra No.78. Once the said petition came to be dismissed on 15th December 2008, the impugned Award was thereafter passed on 20th July 2010 which was within the stipulated period of 2 years (730 days) after the original Section 6 declaration was issued. Although the stay was in respect of the land in one Khasra number, which may not be the Petitioners' land, the effect of the stay would extend to all other lands covered under the same Section 4 notification. This has been explained in *Abhey Ram v. Union of India* (1997) 5 SCC 421 which was followed in *Om Parkash v. Union of India* (2010) 4 SCC 17. Therefore the decision in *Laxmi Devi* is of no assistance to the Petitioners. Prayer (A) is accordingly rejected.

13. As regards prayer B, with the Award not being earlier than five years prior to the coming into effect of the 2013 Act, no relief under Section 24 (2) thereof can be granted. Even otherwise, no grounds exist to quash the land acquisition proceedings and the Award passed in accordance with law under the LAA.

14. For the aforementioned reasons, the writ petition is dismissed, but in the circumstances, with no orders as to costs. The application is also disposed of.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 23, 2019/rd