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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8073/2018 & CM APPL. 30920/2018 (stay)**

DWARKA PRASAD Petitioner
Through: Ms. Anukriti Pareek, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Jaswant Rai Agarwal and Mr.
Vikrant N. Goyal, Advocates for Respondent
No. 1.
Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B along with Ms. Jyoti Tyagi,
Advocate.
Mr. Arun Birbal and Mr. Sanjay Singh,
Advocates for DDA.

+ **W.P.(C) 8074/2018 & CM APPL. 30922/2018 (stay)**

DURGA DUTT JOSHI Petitioner
Through: Ms. Anukriti Pareek, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Jaswant Rai Agarwal and Mr.
Vikrant N. Goyal, Advocates for Respondent
No. 1.
Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B along with Ms. Jyoti Tyagi,
Advocate.

Mr. Arun Birbal and Mr. Sanjay Singh,
Advocates for DDA.

+ **W.P.(C) 8124/2018 & CM APPL. 31158/2018 (stay)**

MITHLESH KUMAR SHAH Petitioner
Through: Ms. Anukriti Pareek, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through: Ms. Mrinalini Sen, Standing Counsel
for DDA.
Ms. Ruchika Rathi, Advocate for LAC/L&B.

+ **W.P.(C) 8146/2018 & CM APPL. 31224/2018 (stay)**

TARA DEVI .. Petitioner
Through: Ms. Anukriti Pareek, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through: Ms. Mrinalini Sen, Standing Counsel
for DDA.
Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B along with Ms. Jyoti Tyagi,
Advocate.

+ **W.P.(C) 8147/2018 & CM APPL. 31226/2018 (stay)**

MAHENDER SHARMA Petitioner
Through: Ms. Anukriti Pareek, Advocate.

Versus

UNION OF INDIA AND ORS. Respondents

Through: Ms. Mrinalini Sen, Standing Counsel
for DDA.

Mr. Sachin Nawani, Advocate for Respondent
No. 2

+ W.P.(C) 8157/2018 & CM APPL. 31243/2018 (stay)

PREM SINGH BISHT

.... Petitioner

Through: Ms. Anukriti Pareek, Advocate.

versus

UNION OF INDIA AND ORS.

.... Respondents

Through: Ms. Mrinalini Sen, Standing Counsel
for DDA.

Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B along with Ms. Jyoti Tyagi,
Advocate.

+ W.P.(C) 8158/2018 & CM APPL. 31252/2018 (stay)

GANGA DEVI

.... Petitioner

Through: Ms. Anukriti Pareek, Advocate.

versus

UNION OF INDIA AND ORS.

.... Respondents

Through: Mr. Arun Birbal and Mr. Sanjay
Singh, Advocates for DDA.

Mr. Sachin Nawani, Advocate for Respondent
No. 2

+ W.P.(C) 8171/2018 & CM APPL. 31300/2018 (stay)

RANJANA DEVI

.. Petitioner

Through: Ms. Anukriti Pareek, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through: Ms. Mrinalini Sen, Standing Counsel
for DDA.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
22.08.2019

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1. These are eight petitions arising out of a similar set of facts and seeking similar reliefs. They are, therefore, being disposed of by a common order. Each of the petitions were nevertheless heard separately.

2. For the sake of convenience, the facts in W.P. (C) 8073/2018 [*Dwarka Prasad v. Union of India*] are being referred to first. The prayer in the said petition reads as under:

“a. Pass a writ, order or direction in the nature of a writ of declaration, declaring the acquisition proceedings initiated in respect of the land comprised in Plot No. 63, measuring 203 sq. yards, out of Khasra No. 37/19, in total area admeasuring 2 bigha 09 biswas situated in revenue estate of Village Najafgarh, Tehsil & District Delhi, area abadi known as Dwarka Vihar, Kakrola Road/More, Najafgarh, New Delhi - 110043 to the extent of share owned by the Petitioner have lapsed in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

3. The background facts are that the land in question i.e. Plot No. 63, admeasuring 2 *Bighas* 9 *Biswas* comprised in Khasra No. 37/19, situated in the *abadi* Dwarka Vihar, Kakrola Road, Village Najafgarh, New Delhi (hereafter, 'subject land') was notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 7th April, 2006. This was followed by a declaration under Section 6 of the LAA on 4th April, 2007. The Land Acquisition Collector ('LAC') passed an award being Award No. 05/2008-09/SW on 20th November, 2008.

4. As far as the Petitioner is concerned, it is stated that the Petitioner purchased the subject land by way of a General Power of Attorney ('GPA') dated 28th May, 1999 from Kundan Singh, who is stated to have been the owner of the subject land at the relevant time. A copy of the *Khatauni* for the year 1989-90 and the aforementioned GPA has been annexed with the petition.

5. It is averred in the petition that the Petitioner has been inhabiting the subject land and that this is demonstrated by the electricity bills issued in his name. A copy of the electricity bills has been annexed with the petition. In para 8 of the petition, it is stated that at the time that the land was sought to be acquired, the Petitioner made multiple representations to the LAC. It is specifically averred that on June 25th, 2008 the Petitioner put forth his objections before the LAC, Kapasera, New Delhi and thereafter, on February 19, 2009 filed for apportionment. It is further submitted that the Petitioner has not been paid any compensation till date. The petition then straightaway refers to the enactment of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act ('2013 Act') and the Petitioner's entitlement to a declaration of deemed lapsing under Section 24 (2) of the said Act on the ground that neither possession of the subject land been taken nor compensation paid. In this context, reference has been made to the judgment of the Supreme Court in ***Pune Municipal Corporation v. Harakchand Misrimal Solanki (2014) 3 SCC 183***. Reliance has also been placed on the judgment of this Court in ***Jagjit Singh v. Union of India*** [W.P.(C) 2806/2004] to contend that the Petitioner's case stands on a similar footing and that therefore, the Court should grant him a declaration of deemed lapsing under Section 24 (2) of the 2013 Act. No counter affidavit has been filed by the Respondents in reply to the petition.

6. In the companion writ petitions, nearly identical averments and prayers have been set forth. In fact, the contents of the writ petition only diverge insofar as the extent and the description of the subject lands in the *abadi* Dwarka Vihar, Kakrola Road, Village Najafgarh. They were acquired by the same award [Award No. 5/2008-09/SW] and, accordingly, the writ petitions are all directed against the said award.

7. As far as the Respondents' replies to the companion writ petitions are concerned, the DDA has filed a counter affidavit in W.P.(C) Nos. 8124/2018, 8146/2018, 8147/2018, 8157/2018, 8171/2018. In all the aforesaid petitions, the DDA has stated that compensation of the amount of Rs.8,11,85,866/- has been paid to the landowners for the acquisition pursuant to the impugned *W.P.(C) 8073/2018 and connected matters*

award. As all the Petitioners claim ownership over the subject land by a GPA executed in their favour, the DDA has questioned the validity of the Petitioners' title and accordingly, their *locus* to file the present petitions. Further, the DDA has submitted that the acquisition proceedings in respect of the subject lands have attained finality and any challenge to the same at this point is barred by inordinate delay and laches. In this context, reference has been made to the judgments of the Supreme Court in ***Mahavir Singh v. Union of India (2018) 3 SCC 588*** and ***Indore Development Authority v. Shailendra (2018) 3 SCC 412***.

8. The LAC in reply to W.P.(C) Nos. 8124/2018, 8158/2018 and 8171/2018 has filed a counter affidavit in each of the said petitions. It is stated therein that as per the *Naksha Muntazamin* a compensation of Rs.4,31,37,837/- was deposited in the Court of the ADJ by way of a cheque [cheque no. 847129] dated 27th December, 2013. In respect of possession, it is submitted that possession of the land bearing Khasra Nos. 41//21/1 (1-2), 42//8/1 (1-2), 9/1/1 (3-5), 9/2 (3-4), 10/2 (4-13), 11/1 (0-15), 12/2 (4-8), 13/1 (1-9), 13/2/2 (3-0), 14/1 (0-19), 16/2 (2-0), 1112 (3-7), 18/1/2 (1-3), 18/2 (3-7), 19/1/1 (0-7), 19/2/1 (0-12), 23/1/1 (1-0), 24/1/1 (3-16), 24/2 (0-5), 24/3/1 min (0-2), 25/1-2-3 (4-16), 43//5min (3-0), 6/1 (0-4), 6/2/1 (2-9), 49//4/1 (1-9), 5 (4-16), 6/1 (3-7), 15/1 (2-2), 50//1/7 (1-5), 1/2/1 (2-5), 9/1/1 (0-13), 10 (4-16), 11/1-2 (6-2), 12/2 (3-07), 61 (1-5), 62 (1-1) was taken on 23rd November, 2012 and handed over to the DDA by the L&B. It is stated that possession of the land bearing Khasra Nos. 42//1/1 (3-9), 2/2 (0-10), 43//2/1 (1-4), 3/2 (3-8), 4 (4-16), 7/1/1 (0-7), 36//13/2 (2-0), 14 (3-W.P.(C) 8073/2018 and connected matters

13), 16 (7-02), 25/1 (0-15), 37//18/1/1 (0-08), 19/1 (2-9), 20/1 (5-01), 21/1 (3-9), 22 (4-16), 23/1/1 (1-4), 23/2 (3-06), 24/1/1 (0-11), 24/2 (2-08), 25/1 (1-2), 25/2 min (0-03) has not been taken.

9. No rejoinder has been filed on behalf of any of the Petitioners to the counter affidavits of the LAC or the DDA. Be that as it may, the subject lands in all instances are situated in the *abadi* Dwarka Vihar, Kakrola Road, Najafgarh, New Delhi, which is an unauthorized colony. On the website of the Department of Urban Development, GNCTD a list of unauthorized colonies awaiting regularization has been put up. Dwarka Vihar, Kakrola Road, Najafgarh is one of those colonies which figures at SL. No. 77. There can, therefore, be no doubt that the subject lands are situated in an unauthorized colony. 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.

10. 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 unauthorized colony. The very basis for seeking regularization of an unauthorized 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

regularization on the basis that they are in unauthorized 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 Petitioners pursuing the claim for regularisation of the unauthorised colony in question.

12. It must be noted that in respect of lands in the same area in which the subject land is located, and covered by the same Award, this Court has - by order dated 20th March 2019 in W.P.(C) 11543/2018 (*Parvesh Pandit v. Union of India*) and order dated 7th May 2019 in W.P.(C) 7431/2018 (*Azad Kaur Malik v. Union of India*) - dismissed the writ petitions of other Petitioners similarly situated as the present ones and has declined to grant the identical relief prayed for under Section 24 (2) of the 2013 Act.

13. For the aforementioned reasons, the writ petitions are dismissed. The interim orders dated 3rd August, 2018 in W.P. (C) Nos. 8073/2018 and 8074/2018 stand hereby vacated. The interim order passed by this Court on 6th August, 2018 in each of W.P. (C) Nos. 8124/2018, 8146/2018, 8147/2018, 8157/2018, 8158/2018 and 8171/2018 stand hereby vacated. The applications for stay are disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 22, 2019/abc