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

+ **W.P.(C) 8915/2016**

YASH KUMAR VERMA AND ANR Petitioners
Through **Mr. S.K.Rout & Mr. Aman Mehrotra,**
Advocates

versus

UNION OF INDIA AND ORS Respondents
Through **Mr. Yeeshu Jain & Ms. Shilpi**
Chaudhary, Advocates for LAC/
L & B
Mr. Arjun Pant, Advocate for
Respondent/DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

16.04.2019

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1. The prayers in the present petition read 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 of the petitioners along with the structures of boundary wall, admeasuring about 3 bigha 8 biswa bearing Khasra No.1449 (2-8) and khasra Nos.1289, 1290 (1000 sq.yds) situated in Village Malikpur Kohi alias Rangpuri, Tehsil Vasant Vihar, New Delhi, as deemed to have lapsed in view of the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013:

b. further pass a writ, order or direction in the nature of a writ of mandamus thereby directing the respondents not to interfere with the peaceful possession and enjoyment of the land admeasuring about 3 bigha 8 biswa bearing Khasra No.1449 (2-8) and khasra Nos.1289, 1290 (1000 sq. yds) situated in Village MalikpurKohi alias Rangpuri, Tehsil Vasant Vihar, New Delhi, and

c. pass such ether or further orders as deem fit and proper in the circumstances of the case.”

2. At the outset it must be noticed that in relation to proceedings concerning with the acquisition of land in village Malikpur Kohi @ Rangpuri and has passed the detailed judgment in ***Shivi Talwar v. Union of India (2019 (174) DRJ 390 (DB)*** there again. In that judgment it was *inter-alia* held that no relief in terms of The Right to Fair, Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘the 2013 Act’) could be granted in respect of the properties which form part of unauthorised colonies. In coming to that conclusion this Court followed its earlier judgment of this Court in ***Mool Chand v. Union of India 2019 (173) DRJ 595 DB.***

3. As far as the present case is concerned, the case of the two Petitioners as set out in the writ petition is that they are the owners of the aforementioned land by virtue of Petitioner No.1 having purchased the property from one Mr. Rakesh Aggarwal by way of a General Power of Attorney (GPA), Agreement to Sell, Possession Certificate, Will, Affidavit and Receipt dated 16th June, 2000.

4. In para 5 of the petition it is further stated that the said Rakesh Aggarwal had purchased the property from one Mr. Arun Tiwari on 25th February, 2008 through a similar set of documents and Mr. Arun Tiwari from Mr. Ratan Lal Gupta on 21st December, 2007 likewise. Copies of these documents have been enclosed as P-1 collectively.

5. As far as Petitioner No.2 is concerned, she is stated to have purchased the land from Smt. Sunita Kumar through a similar set of documents on 20th January, 2011. It is stated in paras 7 and 8 that the said Sunita Kumar had purchased it from Shri Om Prakash in the year 2008 and Shri Om Prakash from Shri Amit Pal Singh Randhawa on 15th September, 2008 again through a similar set of documents. It must be noticed that the above documents do not confer valid, legal title and cannot possibly form the basis of claim for compensation under the 2013 Act, particularly since they were executed long after the land acquisition Award No. 2/98-99 was passed. These documents are in the teeth of Section 4 of the Delhi Land (Restriction on Transfer) Act, 1972 and have no legal sanctity.

6. The Petitioners' claim is that possession of the land was not taken and compensation also not paid and therefore they are entitled to the declaration of deemed lapsing of land acquisition proceedings under Section 24(2) of the 2013 Act. Reference is made to the order dated 27th May, 2014 of the Supreme Court in *Jagjit Singh v. Union of India* interpreting the provisions of Section 24 (2) of the 2013 Act.

7. While directing notice to issue in the present petition on 30th September, 2016 this Court directed status-quo to be maintained with regard to the nature, title and possession of the land in question. Subsequently on 12th December, 2017 the above interim order was made absolute during the pendency of the petition.

8. In the counter affidavit filed on behalf of the Delhi Development

Authority (DDA) (Respondent No.3) a preliminary objection is taken that the Petitioners have not placed on record documents of valid right, title or interest; that they are not the recorded owners and that the transfer of the land in their favour is also barred under Section 4 of the Delhi Land (Restriction on Transfer) Act, 1972. The very locus standi of the Petitioners to maintain the present petition is questioned.

9. It is further pointed out by the DDA that qua the lands in question Award No. 2/98-99 has become final. Neither of the Petitioners challenged any of those land acquisition proceedings at any point in time. According to the DDA, physical possession of the land in Khasra Nos. 1289 and 1290 was handed over to the DDA and a copy of the possession proceedings dated 8th September, 2003 have been enclosed with the counter affidavit. Details of the compensation deposited by the DDA with the Land & Building Department by a cheque dated 10th October, 1996 has also been set out.

10. A separate counter affidavit was filed by the Land Acquisition Collector on 10th May, 2018. It is stated that on account of interim orders passed in present petition including Writ Petition (C) No. 7802/2012 [involving land in Khasra Nos. 1289 (2-19) and 1290 (6-15)], the land acquisition proceedings could not be completed. Land in Khasra No. 1449/4-16 is stated to have formed part of Award No. 3/98-99 in respect of which notification under Section 4 was issued on 27th June, 1995 and declaration under Section 6 on 3rd March, 1997. It is stated that actual vacant possession of the said Khasra number was taken on 8th September, 2003 and handed over to the requisitioning agency. As regards the other two Khasra Numbers it is stated

that possession was taken earlier on 8th September, 2003. However, a fresh Section 6 LAA notification was issued on 4th July, 2017 after quashing of the earlier Section 6 declaration by the Supreme Court. Reference is made to the decision in *Abhey Ram v. Union of India (1997) 5 SCC 421* followed in *Om Prakash v. Union of India (2010) 4 SCC 17* to urge that the interim stay granted in respect of some of the Khasra Numbers would be applicable to the entire land covered by the same notification.

11. No rejoinder has been filed to either counter affidavit of the DDA or the LAC.

12. The very locus standi of the Petitioners to claim compensation is therefore in serious doubt. With the counter affidavits of the LAC and DDA being uncontroverted on this aspect the Petitioners have not been able to satisfactorily demonstrate their locus standi to claim the reliefs sought for in the present petition.

13. The petition is accordingly dismissed but in the circumstances with no order as to costs. The interim order dated 30th September, 2016 made absolute on 12th December, 2017 is hereby vacated.

S.MURALIDHAR, J.

I.S.MEHTA, J.

APRIL 16, 2019/mw