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

+ **W.P.(C) 7620/2014 & CM APPL. 12307/2015**

SAVITRI DEVI

..... Petitioner

Through: Mr.Akhil Sachar, Advocate with
Ms.Sunanda Tulsyan, Advocate

versus

LT GOVERNOR, NCT OF DELHI & ORS

..... Respondents

Through: Mr.Ajay Verma, Mr.Gurmehar
Sistani and Mr.Sumit Mishra,
Advocates for DDA.

Mr.Sanjay Kumar Pathak, Advocate
with Mrs.K.K.Kiran Pathak, Mr.Sunil
Kumar Jha and Mr.M.S.Akhtar,
Advocates for R-2 & R-4.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

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25.03.2019

1. The prayers in the petition read as under:

“a) Issue a Writ of Certiorari and/or a Writ, order or direction in the nature of Certiorari calling for the records of the case and after examining the legality and validity of the Notification dated 25.11.2009 being No.F.11(38)/05/L&B/LA/10998 issued under Section 4 of the Land Acquisition Act, 1894 issued in respect of the land forming part of Village Barwala, Delhi-110039 quash and set aside the same;

b) Issue a Writ of Certiorari and/or a Writ, order or direction in the nature of Certiorari calling for the records of the case and

after examining the legality and validity of the declaration dated 19.2.2010 under Section 6 of the Land Acquisition Act, 1894 quash and set aside the same;

c) Issue a Writ of Certiorari and/or a Writ, order or direction in the nature of Certiorari calling for the records of the case and after examining the legality and validity of the Award No. 03/2010-11/DC(NW) dated 1.7.2011 quash and set aside the same;

d) Issue a Writ, Order or direction in the nature of Mandamus and/or a Writ, order or direction in the nature of Mandamus calling for the records of the case and after examining the legality and validity of the same direct the Respondents not to interfere/dispossess the Petitioner from her land forming part of Khasra Numbers as indicated In the Schedule-A;

e) Pass such other or further orders as this Hon'ble Court may deem fit and proper In the facts and circumstances of the present case.”

2. After the filing of the writ petition, the Petitioner filed CM APPL. 12307/2015 seeking to amend the writ petition to add the following para 6 A and 6 B between paragraphs 6 and 7.

“6A. The Petitioner had initially preferred a Writ Petition (Civil) No. 178 of 2010 wherein the challenge was only to the Notification dated 25.11.2009 under Section 4 of the Land Acquisition Act, 1894. However, neither the declaration under Section 6 of the Land Acquisition Act nor the Award was assailed. It is relevant to note that in the year 2010, the legal proceedings for the Petitioner were handled solely by her husband Late Shri Layak Ram, who unfortunately passed away on 23.06.2013. The Petitioner being a villager is a lady who is a Sixty Two year old senior citizen having very scant knowledge about the legal nuances.

6B. In the month of August, 2010, the Petitioner upon being

advised by her Counsel preferred a CM No. 11372 of 2010 in Writ Petition (Civil) No. 178 of 2010 seeking to withdraw the Writ Petition on the premise that the Respondent has changed the plans and shifted the roads towards the land of the Petitioner as a result whereof the land of the Petitioner has come within the road. The Application was preferred under a purported rumour that the plans had been changed due to which the land of the Petitioner has come within the road. Incidentally, in the month of August, 2010 even the Award No.03/2010-11/DC (NW) dated 1.7.2011 had not been pronounced. Accordingly, vide order dated 26.8.2010, the Writ Petition was dismissed as withdrawn in view of the prayer made in CM No.11372 of 2010.”

3. Further amendment was sought to add Para 12A and to amend Para 14 justifying the filing of a fresh writ petition despite the dismissal of the earlier writ petition as withdrawn by this Court, without liberty to file a fresh petition seeking the same relief.

4. Enclosed with the said the writ petition are the orders passed by this Court in the earlier W.P.(C) 178/2010. The very first order dated 13th January 2010 records the direction of the Court to the Respondents to produce the records relating to formation of the opinion by the competent authority for invoking Section 17 of the Land Acquisition Act, 1894. A status quo order was passed on that date. Rule D.B. was thereafter issued on 10th March 2010. On 26th August 2010 the following order was passed:

“CM No.11372/2010

The application has been filed by the petitioner seeking to withdraw the writ petition. It is stated by the petitioner that the respondent has changed the plans and shifted the roads towards

the land of the petitioner as a result whereof the land of the petitioner has come within the road. The application is duly signed by the petitioner and her counsel and is supported by an affidavit of the petitioner.

The application is allowed.

W.P. (C) No.178/2010

Dismissed as withdrawn in view of the prayer made in CM No.11372/2010. Interim orders stand vacated.

Dasti.”

5. It is thus seen that the writ petition was dismissed as withdrawn not giving any liberty to the Petitioner to file a fresh petition.

6. Consequently, another challenge to the land acquisition proceedings which would include a challenge to Section 4 of the Land Acquisition Act, 1894 cannot be permitted in the present petition.

7. Learned counsel for the Petitioner submitted that the declaration under Section 6 of the Land Acquisition Act was issued on 19th February 2010. Thus it is seen that the withdrawal of the writ petition was subsequent to the declaration under Section 6 of the Land Acquisition Act but prior to the passing of the Award on 1st July 2011.

8. The Court is therefore not inclined to entertain another writ petition challenging either Section 4 or Section 6 notifications under the LAA.

9. As far as the challenge to the Award dated 1st July 2011 is concerned, the acquisition is for the purposes of the Rohini Residential Scheme and writ petitions challenging those land acquisition proceedings for the said scheme have been dismissed by this Court on 17th April 2013 in W.P.(C) 2501/2013, titled ***Naresh Kumar & Ors. v. UOI & Ors.*** and the order has been affirmed by the Supreme Court by its order dated 3rd February 2015 in for Special Leave to Appeal (Civil) No (s) 17121/2013.

10. Consequently, this Court is not inclined to entertain the present petition. The petition is dismissed. The pending application is also dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 25, 2019

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