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

Date of decision: 12.09.2019

+ W.P.(C) 6728/2015

JAGBIR SINGH & ORS.

..... Petitioners

Through: Ms. Annu Arora, Advocate.

versus

GOVT. OF NCT & ORS.

..... Respondents

Through: Mr. Naushad Ahmed Khan, ASC
(Civil), GNCTD with Mr. Zahid
Hanief and Ms. Manisha Chadhary,
Advocates for R-1.
Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for LAC/L&B.
Ms. Sakshi Popli and Ms. Samreen,
Advocates for DJB.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

SANJEEV NARULA, J. (Oral):

1. By way of the present petition under Article 226 of the Constitution of India, Petitioners seek quashing of the notifications issued under Section 4 of the Land Acquisition Act (hereinafter as "LAA") bearing No. F-10(39)/2007L&B/LA/8430 dated 22.08.2012 and under Section 6 of the LAA No. F-10(39)/2007L&B/LA/1805 dated 06.05.2013 in respect of the land admeasuring 3 Bigha 6 Biswa in village Safipur Ranhola, Delhi (hereinafter as "subject land").

2. The case as set out in the petition is that the Respondents have unauthorizedly and illegally taken possession of the Petitioners' land along with their crops standing therein without any notice and contrary to the provisions of the Delhi Reforms Act, 1954. Petitioners contend that they were cultivating on the above subject land before the Respondents took the possession. To establish possession, Petitioners have relied upon 'Khatoni', which describes the Petitioners as 'Khatedar'. It is further contended that the Petitioners were enjoying the possession of the land without any hindrance and obstruction and were cultivating the subject land. On 30.12.2013, officials from the Office of Respondent No. 4 (Sub- Divisional Magistrate (RA), Punjabi Bagh/Nangloi District West, Near Delhi Estate Cooperative Bank, Nangloi, Delhi) and Respondent No. 5 (Block Development Officer, District West, Nangloi/Kanjhawala Opposite Police Station New Delhi) came to take possession of the Petitioners' land alleging that the same had been acquired through the notifications dated 22.08.2012 and 06.05.2013. It is further contended that the said Respondents could not succeed in getting the possession since seasonal crops were standing therein. The notifications have been issued without their knowledge and without service of notice under the LAA. It is further averred that as per the 'Khatoni', the land of the Petitioners have been vested in 'Gram Sabha', however Petitioners did not receive any notice in that regard and they continue to be in possession of the subject land without any disturbance by Gram Sabha. Petitioners also contend that the Land Acquisition Collector (LAC) has passed an award dated 27.12.2013; however Petitioners have not received or taken any compensation.

3. Aggrieved by the action of the Respondents in the present petition, the following reliefs are sought:

- “a) allow the present writ petition;
- b) issue a writ of certiorari for quashing the impugned Notifications u/s 4 of land acquisition act vide Notifications no.F-10(39)/2007/L&B/LA/8430 dated 22.08.2012 and u/s 6 of land acquisition act vide Notification NO.FIO(39)/2007/L&B/LA/1805 dated 06.05.2013 for acquisition of the land measuring 3 Bigha 6 Biswa of village Safipur Ranhola.
- c) Further issue a writ of certiorari for calling the entire records of the case from the office of the respondents.
- d) pass such other writ or writs as are deemed appropriate and justified in the facts and circumstances of the present case.”

4. The Respondent No. 3 (LAC) in his counter affidavit has stated that the acquisition of the subject land was pursuant to the requisition from Delhi Jal Board (DJB) for construction of sewage pumping station. A joint survey was carried out on 30.03.2012 in the presence of Delhi Jal Board, Land and Building and Revenue Department, Government of NCT and thereafter, a notification was issued under Section 4 of the Act in respect of the subject land. No objection under Section 5A was received and according the LAC submitted its report to the appropriate authority and on consideration thereof a declaration under Section 6 of the LAA was issued. It is further averred that the physical possession of the land was taken over and in turn handed over to Delhi Jal Board on 30.12.2013. The land in question had been vested in Gram Sabha pursuant to an order passed by Sub-Divisional Magistrate (SDM) dated 23.07.2010 under Section 81 of the Delhi Land Reforms Act in case No. 249/RA/SDM/P3/2008 and therefore the Petitioners have no locus to challenge the acquisition proceedings in the

present petition.

5. Respondent No. 6 (DJB) has also filed a counter affidavit questioning the locus of the Petitioner to file the present writ petition, contending that Petitioners are not the recorded owners and the subject land was vested in Gram Sabha. As per the demand raised by LAC, the amount was deposited with LAC. The possession of the land was handed over by Land and Building Department on 30.12.2013 and was further handed over to DJB on the same day. After taking possession, construction of boundary walls was started.

6. From the facts narrated above, indisputably the subject land vested in Gram Sabha on the date of acquisition. The vesting of land in Gram Sabha is not a subject matter of challenge in the present writ petition. It therefore, emerges that the Respondents are correct in questioning the *locus standi* of the Petitioners in assailing the land acquisition proceedings. It is for this reason, pursuant to the award, the compensation in respect of the subject land has been deposited in the name of Gram Sabha. Petitioners have not annexed any document in support of their ownership, except for a Khatoni for the year 2001-02 which reflects the name of the Petitioners only as Khatedar. In view of the aforesaid fact, there is merit in the contention of the Respondents that since the land was vested in the name of Gram Sabha, the Petitioners do not have the locus to challenge the present proceedings. Accordingly the present petition is dismissed. It is however clarified that the dismissal of the present petition would not come in the way of the Petitioners challenging the vesting of the subject land in the name of Gram

Sabha. Needless to say, in case the Petitioners do take such an action and succeed therein, the Petitioners would have all the consequential rights emerging therefrom.

7. In view of the above, the present writ petition is disposed of in the above terms.

SANJEEV NARULA, J

VIPIN SANGHI, J

SEPTEMBER 12, 2019

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