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

+ **W.P.(C) 3967/2015**

DEVENDER DABAS & ORS.

..... Petitioners

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

versus

LT. GOVERNOR OF DELHI & ORS.

..... Respondents

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

Mr. Ajay Verma, Advocate with
Mr. Gurmehar S. Sistani and Mr.
Sumit Mishra, Advocates for
DDA.

W.P.(C) 4624/2015

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JAGDISH SINGH & ORS.

..... Petitioners

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

versus

LT. GOVERNOR OF DELHI & ORS.

..... Respondents

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

Mr. Ajay Verma, Advocate with
Mr. Gurmehar S. Sistani and Mr.
Sumit Mishra, Advocates for
DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S. MEHTA

Signature Not Verified

Digitally Signed

By:AMULI P. AC) 3967/2015 & W.P. (C) 4624/2015

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ORDER
25.03.2019

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1. In both these petitions, the facts more or less are similar and the reliefs sought are almost identical. They are accordingly being disposed of by this common order. Nevertheless, each of the petitions was heard separately.

2. In each of these petitions, the main relief sought is for a declaration of deemed lapsing of the land acquisition proceedings under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act'). The declaration is sought in respect of land situated in the Revenue Estate of Village Barwala in Delhi. The acquisition is by means of notification dated 21st March 2003 issued under Section 4 of the Land Acquisition Act, 1894 (LAA) followed by a declaration dated 19th March 2004 under Section 6 LAA and an Award No. 12/2005-06/DC (NW) dated 5th August 2005. The public purpose of the acquisition was for the Rohini Residential Scheme. The only difference in the petitions is as regards the khasra Nos. and the extent of land.

3. For convenience, the facts of W.P. (C) No. 3967/2015 titled ***Devender Dabas & Ors. v. Lt. Governor of Delhi & Ors.*** are discussed. The prayers in the present 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 21.3.2003 being No. F11(19)/2001/L&B/LA/20112 issued under Section 4 of the Land Acquisition Act, 1894 issued in respect of the land forming part of Village Barwala quash and set aside the same;

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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 19.3.2004 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. 12/2005-06 dated 15.7.2005/5.8.2005 (Annexure-C to the Writ Petition) 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 Petitioners from their lands forming part of Khasra Numbers as indicated in Annexure-D;

e) Issue a Declaration that the acquisition proceedings with respect to the land of the Petitioner as indicated in Schedule-A be deemed to have lapsed;

f) 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."

4. The case of the Petitioners is that they were paid "meager amount of compensation at the rate of Rs. 15, 70, 000/- per acre, i.e., 325 per sq. yd. " However, it is claimed that they still remain in possession of the land in question and therefore are entitled to the relief under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act').

5. It is admitted that the Petitioners had challenged same land acquisition proceedings in respect of lands in the Revenue Estate of Village Barwala, in an earlier round of litigation by way of a batch of writ petitions where

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the lead matter was W.P. (C) 2501/2013 (*Naresh Kumar & Ors. v. Union of India*). By a detailed judgment dated 17th April 2013, a Division Bench (DB) of this Court dismissed the writ petition *inter alia* holding as under:

“We, at the inception, put to learned senior counsel for the petitioners as to why and how can we permit a settled position to be unsettled after a decade. This is so as the petitioners chose to remain silent when the acquisition proceedings were initiated, accepted the same, took compensation and sought references for enhancement of compensation. The aforesaid facts have to be examined in the conspectus of the purpose for which the land was acquired which was planned development of Rohini Residential Scheme. In Delhi there has been large scale acquisition by the DDA which was originally the only authority which was engaged in development of land and meeting the housing needs of the people. No doubt in this process while large tracts of land were acquired, some land remains undeveloped and the DDA could not protect its land pool with the result encroachment took place. These encroachments have been on such a massive scale with practically no prevention that a large part of habitants of Delhi reside in these colonies. The Government has come up now with schemes of regularization of these colonies.

Rohini Residential Scheme like other schemes is in the nature of a mini township. Such a mini township will contain all the essential features, i.e. residential areas, commercial areas, institutional areas. Thus, while there will be development of residential plots, there would also be development of commercial areas to take care of the needs of residents. These may be shopping arcades or there may be hotel sites, etc. Similarly there would be institutional requirements like for purpose of schools, hospitals, community facilities, etc. If land is allotted for all these purposes it cannot be said that the purpose of acquisition has disappeared or there is mala fide exercise of the power of acquisition. The DDA would spend large amount of monies on development of the area and, thus, to have a transparency auction is often the method, adopted for allotment, at least, with commercial areas while in case of residential areas there may be auction of plots or particular schemes under which plots and flats are allotted. It may be

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possible even to allot land to certain societies for their needs. Similarly hotel sites and commercial buildings are often auctioned.

We are, thus, of the view that the nature of allegations made in this writ petition cannot be said of such a nature as to suggest that there is a mala fide exercise of power or improper use of the land, which has been acquired.

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We are of the view that the petitioners cannot after such a long period seek to rake up the issue of acquisition merely on the basis of some recent pronouncements by the Hon'ble Supreme Court even when they accepted the compensation qua acquisition of the land by neither challenging the acquisition proceedings nor the award but on the other hand were only interested in enhancement of compensation for which they have sought a reference. They have also recovered the compensation and for them now to say that they are willing to return that compensation after number of years and should be permitted to assail the acquisition proceedings would not, in our view, be the appropriate direction to be passed.

In view of these facts and circumstances, we are not inclined to entertain the petition seeking to challenge the acquisition proceedings both on grounds of delay and laches as also on account of the acquiescence and conduct of the petitioners qua the acquisition proceedings.

Dismissed.”

6. On 3rd February 2015 the Supreme Court of India passed the following orders in SLP (C) No. 17121/2013 (*Naresh Kumar v. Union of India*) and a batch of special leave petitions (SLPs), of which the SLP filed by the Petitioners herein formed part, all of which were directed against the above order dated 17th April 2013 of the DB of this Court in W.P. (C) 2501/2013 and batch. The order reads as under:

“SLP (C) Nos. 17121, 33188 of 2013 & SLP (C) 17482, 13358 of 2014

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Shri T. N. Singh and Dr. Surat Singh, learned counsels for the Petitioners in respective matters on instructions, seek permission of this Court to withdraw these petitions.

Permission sought is granted.

The special leave petitions are disposed of as withdrawn.

Contempt Petition (S) No. 319 of 2013 in SLP (C) 17121 of 2013

In view of the withdrawal of the special leave petition, nothing survives for consideration and decision in this contempt petition. The contempt petition is dismissed in terms of the signed order."

7. Thus no liberty was granted to the Petitioners in the above matters to challenge the land acquisition proceedings afresh. The order dated 17th April 2013 passed by the DB of this Court in **Naresh Kumar** (*supra*) rejecting the challenge to the land acquisition proceedings *qua* the lands in village Barwala for the Rohini Residential Scheme attained finality.

8. The DDA in its counter affidavit submitted that the petition is severely barred by delay and laches. It is also submitted that the physical possession of the land falling in Khasra Nos. 5//3(4-16), 6/10(4-16), 11(4-16), 21 (4-02), 22(4-12), 7// 14(4-16), 15(4-16), 25/1 (3-06), 26(0-12), 10//5(4-16), 6(4-16), 11//1(5-00), 4(4-16), 7(3-19), 16 (4-12), 17/1(2-16), 14//20(4-16), 21(4-04), 15//16/2(1-15), 25/2(1-18), 16//22/1(2-16), 22/2(1-08), 21//7(4-16), 14(4-16), 15(4-16), 16(4-11), 22//20(4-16), 21(4-16), 23//4/1 (3-04), 4/2(1-12), 5/1(4-06)5/2(0-07), 24//1/1(0-04) 1/2(4-10), 25//10(4-16), 33/15(4-16), 34// 10/2(1-00), 11(4-16), 17(4-1 6),20(4-16), 24(4-16), 39//26(0-04), 40//3(4-05), 4(4- 16), 7(4-16), 49//2/2(2-00), 9 (4-16), 12(4-16), 52//7 (4-16), 53//22/2(3-10), 23min (2-14) 25 (4-16), 54//1 (4-16), 9/(4-12), 10(4-16), 12/1 (1-15), 59//5(4-16), 6(4-16), 7min (1-11), 15 (3-17),16/1 (1-14), 60//1(3-17), 10/1(1-11), 12(4-16), 13(4-16)

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18/1(1-06), 19(4-16), 61//24(4-16), 25/1(1-08), 25/2(0-12), 25/3(2-16), 62//11/2(1-00) 18/1(1-09), 19 (4-16), 20(4-16), 21(4-16), 22(4-16), 63//5(4-16), 6(4- 16), 64//1(4-16), 2(4-16), 3min (4-06-10), 4min (3-08), 5(4-16), 10(4- 16), 65//1/1(0-16), 67//3(4-16), 4(4-16), 7/1 (2-02), 8(4-16), 68//16/2(4- 00) 24(4-05), 25(4-16), 69//1 (4-08), 2(4-08), 10(4-16), 70-//4(4-08), 5(4- 08), 6(4-16), 7(4-16), 14(1-16), 15(2-16), 74//4(4-05), 5(4-16), 16/2(1-03) 25/2(2-03), 75//18(3-06), 19(4-16), 20(4-16), 21(4-16), 22(4-15), 76//1 min 2-04), 2(1-01) 26(0-04) was taken by the LAC and handed over to the DDA on 6th October 2005 except for land falling in Khasra No. 21//26(0-05), 76//1 min (0-02) being built up.. It is further submitted that the land was further transferred to the Engineering Department on 20th December 2005. On the aspect of compensation it is submitted that the DDA paid a sum of Rs.3,02,35,05,048/- against Award No. 12/05-06/DC/NW.

9. Inasmuch as the lands were acquired for the Rohini Residential Scheme, on the question of actual physical possession, a reference needs to be made to the orders passed by the Supreme Court on 10th March 2015, 28th January 2016 and 18th October 2016 in SLP (C) Nos. 16385-88/2012 (*Rahul Gupta v. Delhi Development Authority*) and in the interlocutory applications ('I.As') in the said SLPs. Although, in the order dated 10th March 2015, the Supreme Court referred to the acquisition of land for the Rohini Residential Scheme in Sectors 34, 35, 36 and 37, in the subsequent order dated 18th October 2016, it was made clear that the effect of the said order of the Supreme Court was to be applied to all the lands acquired for the Rohini Residential Scheme. In the order dated 18th October 2016 while disposing of various I.As in the aforementioned SLPs, the Supreme Court directed as under:



“Heard Mr. V. Giri, learned Senior Counsel appearing for the applicants and perused the interlocutory applications.

In view of the order dated 10.03.2015, passed by this Court in SLP (C) Nos. 16385-16388 of 2012, and a subsequent order dated 28.01.2016, passed in the same special leave petitions, the interim order passed by the High Court of Delhi on 04.3.2015 in W.P.(C) No. 1915/2015 (Annexure A-4 in the instant interlocutory applications), is liable to be vacated, and is accordingly vacated.

We grant liberty to the Delhi Development Authority to produce a copy of this order **in all matters, pertaining to land acquisition relating to the Rohini Residential Scheme**, pending before the High Court, for vacation of similar interim directions.

It is made clear that in case the applicants have re-entered possession or otherwise, they shall vacate the said land and hand over its possession forthwith to the Delhi Development Authority, failing which it shall be assumed to be in possession of the Delhi Development Authority, after the expiry of ten days from the passing of the instant order.

With the aforesaid directions, these interlocutory applications stand disposed of.” (emphasis supplied)

10. These directions were repeated in the remaining I.As which were disposed of on the same date i.e. 18th October 2016. In effect therefore, the position is that if anyone still in possession of lands acquired for the Rohini Residential Scheme had not surrendered possession thereof to the DDA within ten days of the order dated 18th October 2016, then the possession thereof was deemed to be with the DDA. It would no longer be open to such persons to contend that actual physical possession of the lands in question remains with them.

11. This legal position has been clarified by this Court in its order dated

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22nd November 2018 in W.P. (C) 51118/2016 (*Jawahar Singh v. Lt. Governor*) and reiterated in the order dated 25th January 2019 in W.P. (C) 3438/2015 (*Krishna Devi v. Union of India*).

12. For the aforementioned reasons, none of the reliefs sought for in the each of the present petitions can be granted. The petitions are accordingly dismissed. The interim orders if any stand vacated.


S. MURALIDHAR, J.


I.S. MEHTA, J.

MARCH 25, 2019

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