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

+ **W.P.(C) 4930/2017**

SURESH KUMAR AND ANR

..... Petitioners

Through: Mr Alok Kachru, Advocate with Mr  
Deepak Sharma, Advocate.

versus

COMMISSIONER OF POLICE AND ANR

..... Respondents

Through: Mr Anuj Aggarwal, ASC/GNCTD  
with Mr G.C. Shyamsundar,  
Advocates for R-1 and R-2.  
Mr R.K. Dhawan, Addl. Standing  
Counsel for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**15.05.2019**

1. The petitioners have filed the present petition, *inter alia*, alleging that police authorities have encroached upon their land in Khasra No. 41 and 43 located in the revenue estate of Village Bharolla, Delhi - 110033. It is stated that police officials intend to raise a structure on the said land and thereby usurp the land belonging to the petitioners.

2. The petitioners claim that they are in possession of the said land and no notification under Section 4 of the Land Acquisition Act, 1894 (hereafter referred to as 'the Act') has been issued in respect of the said land. It is stated that the revenue authorities intended to take over part of the land as Gram Sabha land. However, that endeavour was successfully resisted by the family members of the petitioners.

3. The respondents have countered the aforesaid contentions. It is affirmed on behalf of respondent no.3 (DDA) that as per its records, 25 bighas and 8 biswas in Khasra No. 40; 7 bighas and 10 biswas in Khasra No. 41/1; and 1 bigha and 4 biswas in Khasra No. 43/1 in Village Bharolla was acquired under the Act. A Notification under Section 4 of the Act was issued on 13.11.1959 which was followed by the notification under Section 6 of the Act issued on 24.11.1962. Subsequently, an award (Award No. 1568 dated 09.04.1963) was also made in respect of the said lands.

4. It is further affirmed by DDA that physical possession of the said land was taken over by the Land and Building Department and the same was handed over to DDA on 25.05.1963.

5. It is stated that on 04.02.2009, the aforesaid land measuring 1156.76 sq. meters located in Khasra No. 41/1 was allotted to Deputy Commissioner of Police, Land and Building Cell, Police Headquarters.

6. An affidavit has also been filed on behalf of respondent no.1 (Commissioner of Police) affirming that a plot of 1156.76 sq. meters was allotted by DDA on 04.02.2009 on perpetual lease basis. The said land was required for construction of a Police Post at Village Bharolla. It is further stated that a sum of ₹21,80,457/- was paid by respondent no.1 to DDA vide a cheque dated 13.05.2009 and the physical possession of the said plot was handed over by DDA to the Delhi Police in terms of a possession letter dated 08.07.2009. It is affirmed that Delhi Police has been in possession of the said land since 08.07.2009.

7. It is contended on behalf of the petitioners that the controversy as to whether the land in question vested with the Gram Sabha has been settled in view of the judgment dated 20.11.2009 rendered in Suit No. 490/06/96/61. It is also stated that an appeal (RCA No. 43/2015 captioned “*Delhi Development Authority v. Thakur Das (Deceased) through LR’s*”) preferred by DDA against the said decision was been dismissed by an order dated 09.10.2015. It is stated that DDA has filed a second appeal against the said decision, which is pending before this Court. In view of the above, the petitioners contend that it is not open for the respondents to claim possession or any right over the property in question.

8. A plain reading of the judgment in *Thakur Das (Deceased) through LR’s v. Gaon Sabha Bharola, Delhi and Others; Suit No. S490/06/96/61* indicates that although it is noted that the land under Khasra Nos. 40, 41 and 43 were being used as a residential site, there is no mention as to the acquisition of any land in those Khasras under the Act. In the decision rendered by the Appellate Court (*in RCA No. 43/2015 captioned Delhi Development Authority v. Thakur Das (Deceased) through LR’s*), the Court rejected the contention that any land had been required because DDA had failed to produce any notification under the Act or any evidence of payment of compensation. However, in the present case, DDA has produced copies of notifications issued under Sections 4 and 6 of the Act as well as the copy of the award.

9. It is also relevant to note that proceedings in RCA No. 43/2015, the respondents had contended that land acquired by DDA had been used in the New Sabzi Mandi Scheme.

10. DDA has already filed a second appeal against the said decision which is pending before this Court.

11. In view of the contentious issues, this Court is not inclined to pass any order. DDA and respondent no.1 assert that they are in possession of the property in question which is disputed by the petitioners. It is evident that there are several disputed questions of fact and this Court does not consider it apposite to entertain the said controversy in the present petition. The petition is disposed of.

12. It would be open for the petitioners to institute appropriate action in this regard including for seeking possession of the land in question. Needless to state that any action, if so, instituted shall be considered in accordance with law.

**VIBHU BAKHRU, J**

**MAY 15, 2019**  
**RK**