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

+ W.P.(C) 5799/2017

OM PRAKASH GOYAL

..... Petitioner

Through: Mr Sundeep Srivastava, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Yeeshu Jain, Standing Counsel for
L&B/LAC.

Mr Parvinder Chauhan, Advocate for
DUSIB.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.05.2019

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

- “a) Issue Writ in the nature of Mandamus directing the Respondents to remove all unauthorised construction of structures, on the Petitioner's land bearing Khasra No.7 (0-14), 9(5-4), in Village Bhalaswa Jahangirpur, Delhi;
- b) Issue Writ in the nature of Mandamus to handover complete, flat, vacant and peaceful possession of the Petitioner's lands bearing Khasra No.7 (0-14), 9 (5-4) in Village Bhalaswa Jahangirpur, Delhi, to the Petitioner being illegally withheld by the Respondents despite setting aside / quashing of the Notifications seeking to acquire the same;
- c) Issue Writ in the nature of Mandamus directing the Respondents to compensate the Petitioner to the tune of Rs. 1,00,00,000/- (Rupees One Crore) for illegally

withholding the Petitioner's property by delaying handing over possession thereof to the Petitioner despite setting aside of the Notifications seeking to acquire the Petitioner's property.”

2. It is the petitioner’s case that he is the Owner / Bhumidar of the land comprising Khasra Nos. 7 (0-14), 8(4-5) and 9(5-04) situated in the Village Bhalaswa, Jahangirpur, Delhi. It is stated that the said lands were the subject matter of a Notification dated 30.07.1998, issued under Section 4 and Section 17 of the Land Acquisition Act, 1894 (hereafter ‘the Act’). The said notice was followed by a notice dated 04.08.1998 under Section 6 of the Act. The possession of the said lands was taken over on 02.09.1998. However, no compensation was awarded.
3. The petitioner preferred a writ petition impugning the aforesaid notice issued under Sections 4, 6 and 17 of the Act (being C.W.P. No. 4843/1998). The said petition was allowed by an order dated 31.05.2002, and the said Notifications to the extent it related to the land in question (land comprising under Khasra Nos. 7 (0-14), 8(4-5) and 9(5-4) Village Bhalaswa, Jahangirpur, Delhi) were set aside.
4. Thereafter, on 04.03.2003, the respondents issued a fresh notice under Section 4 of the Act in respect of the aforesaid lands. The petitioner filed objections to the said acquisition under Section 5A of the Act. This was followed by another notice dated 04.02.2004 issued under Section 6 of the Act. However, the said notification did not include lands in Khasra Nos. 7 (0-14), and 9(5-4) and the same were not acquired.
5. The petitioner, thereafter, filed a writ petition (being W.P.(C)

8048/2004) challenging the acquisition in respect of Khasra No. 8(4-5). The said writ petition was also allowed by an order dated 27.05.2014. This Court is informed that the Special Leave Petition preferred by the respondent against the said decision (being SLP (C) No. 2124/2015) was also dismissed by the Supreme Court by an order dated 27.02.2015.

6. It is conceded on behalf of respondent no.4 that the lands in Khasra No. 7 and 9 were not acquired, and acquisition in respect of land in Khasra No. 8 had been quashed. Despite the above, the possession of the lands in question have not been returned to the petitioner.

7. Respondent no.4 had taken over possession of the said land and it is affirmed that the said lands were handed over to respondent no.5 (Delhi Urban Shelter Improvement Board – DUSIB). And, currently, the said land in question is in possession of DUSIB.

8. Mr Chauhan, learned counsel appearing for DUSIB submits that DUSIB had paid valuable consideration for the said lands to Land and Building Department (respondent no.4). He states that in this view, DUSIB is entitled to occupy the said land.

9. The said contention is unmerited as it is apparent from the above narration that respondent no.4 did not acquire any rights in respect of the lands in question. Admittedly, the compensation for the same has also not been paid.

10. In view of the above, the possession of the said lands has to be restored to the petitioner. Accordingly, DUSIB is liable to handover the

possession of the land in question, namely, lands in Khasra Nos. 7 (0-14), 8(4-5) and 9(5-4).

11. It is seen that the petitioner has also sought further prayers regarding compensation from the respondents for withholding the possession of the land. This Court does not consider it apposite to entertain the said controversy in this petition. It would be open for the petitioner to institute an appropriate action in this regard.

12. In view of the above, the respondents are directed to handover the vacant possession of the lands in question to the petitioner on 15.07.2019 at 10:30 a.m. The concerned officers of the concerned departments are also directed to be present at the site on that date to complete the process of handing over of possession of the lands in question.

13. The petition is disposed of in the aforesaid terms.

14. Order *dasti* under signature of Court Master.

VIBHU BAKHRU, J

MAY 30, 2019
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