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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6225/2015

RAGHBIR SINGH & ORS.

.... Petitioners

Through: Mr. Rajat Mathur,
Advocate.

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Abhay Prakash
Sahay, CG for Union of India.

Mr. Pawan Mathur, Advocate,
Standing Counsel for DDA.

Mr. Yeeshu Jain and Ms. Jyoti
Tyagi, Advocates for LAC/L&B.

Mr. Dhanesh Relan, Advocate for
DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

21.08.2019

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1. The prayers in the present petition read as under:

“a. issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition along with Award No. 10/2008-09/DC(N-W) pronounced in the year 2009 with respect to the land of the Petitioners bearing Khasra 18//12/2 (1-4), 13/2 (1-4), 16 (4-16), 17 (3-15), 18 (4-16), 19 (4-11), 20 (4-16), 21 (4-16), 22 (4-16), 23 (4-16), 24 (4-5), 25 (4-16), 27 (0-5), 19/16 (4-16), 25 (4-16), 25//3/1 (2-

4), 4 (4-4), 5 (4-16) total measuring 69 *Bighas* 12 *Biswas* situated in the revenue estate of Village Tikri Khurd, Delhi; having been lapsed; and/or

b. the Land Acquisition Collector be directed to assess and award/give compensation to the petitioners of their lands in accordance with the provisions of the New Act, 2013.”

2. The background facts are that the land in question i.e. Khasra Nos. 18//12/2 (1-4), 13/2 (1-4), 16 (4-16), 17 (3-15), 18 (4-16), 19 (4-11), 20 (4-16), 21 (4-16), 22 (4-16), 23 (4-16), 24 (4-5), 25 (4-16), 27 (0-5), 19/16 (4-16), 25 (4-16), 25//3/1 (2-4), 4 (4-4), 5 (4-16) (‘subject land’) admeasuring 69 *Bighas* 12 *Biswas* situated in the Revenue Estate of Village Tikri Khurd, Delhi was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 23rd February, 2006 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6 of the LAA dated 22nd February, 2007. Thereafter, the Land Acquisition Collector (‘LAC’) made an Award No. 10/2008-09/DC (N-W) (‘the Award’) dated 16th February, 2009 under Section 11 of the LAA.

3. The Petitioners claim to be the recorded owners of the subject land on the basis of the *Khatauni* for 2000-01. It is stated by the Petitioners that possession of the subject land could not been taken since it is partly built up and partly surrounded by built up area of the village *abadi*. It is further stated by the Petitioners that they are in physical possession of the subject land, which is being used for cultivation.

4. It is submitted by the Petitioners that complete compensation has not been paid in respect of the subject land to majority of the beneficiaries, which is sought to demonstrated by letters dated 24th November, 2011 and 8th September, 2012 sent by the LAC to the Land and Building Department ('L&B') demanding the amounts payable to the Petitioners under the Special Rehabilitation Package ('SRP') announced by the Government of NCT of Delhi ('GNCTD') by way of an order dated 1st October, 2008. It is further submitted by the Petitioners that the Award was made in non-compliance with the SRP, by computing the compensation amount with reference to the tentative prices fixed in 2005.

5. Counter-affidavits have been filed on behalf of Union of India and the LAC. In the counter-affidavit of Union of India, it is averred that Union of India is only a proforma party in the matter and is not involved in activities relating to the acquisition.

6. In the counter-affidavits of the LAC, it is averred that the writ petition is liable to dismissed since the provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') was not attracted, the Award having been made within five years prior to the coming into force of the 2013 Act. It is stated by the LAC that possession of the subject land was taken by way of Possession Proceedings dated 22nd June, 2011 and compensation of a sum of

Rs.98,31,900/- has been paid to each of the Petitioners by way of Cheque Nos. 260178 and 260179 dated 28th June, 2011 and 6th July, 2011.

7. No rejoinder has been filed by the Petitioners in response to the counter-affidavits of Union of India and the LAC.

8. At the outset, on the Petitioner's own showing, the Award was made on 16th February 2009. Since the 2013 Act came into force on 1st January, 2014, the Award was evidently made within five years prior to the commencement of the 2013 Act. Therefore, one of the essential conditions for grant of relief under Section 24 (2) of the 2013 Act is not fulfilled.

9. There is another aspect to the matter. From the averments in the writ petition itself, it emerges that the subject land forms a part of Village Tikri Khurd. On the website of the Department of Urban Development, GNCTD, a list of unauthorised colonies awaiting regularisation has been put up. Village Tikri Khurd is one such unauthorized colony, which figures at Sl. No. 1625 (Regn. No. 135 ELD) on the aforesaid list. This Court has in a series of orders, consistently held that where the property in question is part of an unauthorized colony, no relief under Section 24 (2) of the 2013 Act can be granted. The legal position has been summarized by the Court in ***Mool Chand v. Union of India (2019) 173 DRJ 595 (DB)*** where it was held in paragraphs 48, 49 and 50 as under:

“48. The third aspect of the case is that the Petitioner admits that the land in question is part of an unauthorized colony. The very basis for seeking regularization of an unauthorized colony is that it is located on land which belongs either to the public or to some other private parties. The Petitioners would therefore not have the locus standi to seek a declaration in terms of Section 24 (2) of the 2013 Act in such cases since the very fact that they have sought regularization on the basis that they are in unauthorized colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

49. This Court has by order dated 19th December 2018 in WP(C) No. 190/2016 (*Harbhagwan Batra v. Govt. of NCT of Delhi*) and order dated 8th January 2019 in WP(C) No. 10201/2015 (*Gurmeet Singh Grewal v. Union of India*) negatived similar pleas by the Petitioners who were trying to seek similar declaration of lapsing even while admitting that they were pursuing regularisation of an unauthorised colony.

50. In a decision dated 10th January 2019 in W.P. (C) 3623 of 2018 (*Akhil Sibal v. Govt. of NCT of Delhi*) this Court observed in this context as under:

“18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premise on which such regularization is sought is that these constructions have been erected on public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets contradicted as some of them try to seek a

declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable.”

10. The above decision has been followed and the legal position has been reiterated by this Court in an order dated 25th January, 2019 in W.P.(C) No.3438/2015 (*Krishna Devi v. Union of India*).

11. As regards the assessment and award of compensation in respect of the subject land under the 2013 Act, the averments regarding payment of compensation to a majority of the beneficiaries raise disputed questions of fact which cannot be entertained in the present writ petition. Be that as it may, this Court has also previously held in its order dated 26th July, 2019 in W.P.(C) 7798/2015 (*Randhawa Singh and Ors. v. Union of India and Ors.*) that the proviso below Section 24(2) of the 2013 Act shall not be applicable to the Award.

12. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 3rd July, 2015 as confirmed on 9th November, 2017 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 21, 2019/abc