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

+ **W.P. (C) 9009/2017**

RAJ KUMAR SINGH AND ORS. Petitioners

Through: Mr. Subhasish Bhowmick,
Advocate.

versus

LAND ACQUISITION COLLECTOR EAST
AND ANR

... Respondents

Through: Mr. Sachin Nawani, Advocate
for R1/LAC.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
10.07.2019

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1. The prayer in the present petition reads as under:

“(a) It is therefore, respectfully prayed that this Hon'ble court may be pleased to issue a writ/order/direction in nature of certiorari calling for the records of acquisition proceedings in respect of the land comprised in Khasra No. 307, area measuring 112 Bighas and 6 Biswas situated in Revenue Estate of village Chilla Saroda Bangar, Delhi acquired vide Award no. 39/82-83 and further to issue appropriate writ, order or direction declaring the acquisition proceedings having lapsed and have become inoperative after the coming into force of Right to Fair Compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Cost of the proceedings be awarded to the humble Petitioners.”

2. The background facts are that the land in question i.e. 112 *Bigha* 6 *Biswas* of Khasra No. 307 situated in revenue estate of village Chilla Saroda Bangar, Delhi (hereafter, 'subject land') was notified under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 17th November, 1980 for the public purpose of planned development of Delhi. This was followed by a notification under Section 6 of the LAA on 29th September, 1981. The Land Acquisition Collector ('LAC') passed the impugned Award No. 39/82-83 on 30th September, 1982.

3. As far as the Petitioners are concerned, it is stated in the petition that the Petitioners and their father purchased the subject land from one Shri Ramji Lal by way of a General Power of Attorney ('GPA') dated 3rd April, 1980. A perusal of the said documents enclosed with the petition reveals that they are unregistered documents that do not confer any valid title or interest.

4. It is averred in the writ petition, that the Petitioners upon purchasing the subject land constructed boundary walls, two rooms, kitchen and lavatories on the subject land. It is further stated in the petition that possession of the subject land was taken on 1st October, 1982. It is stated that compensation was not paid to the recorded owners of the subject land, but instead to one Late Shri Kartar Singh, whose name was not present in the revenue record. It is further averred that the sons of Late Shri Kartar Singh, claiming to be owners of the subject land, transferred their interest to three persons, who in

turn applied for and were granted enhanced compensation of Rs.11,45,65,892.08 under Section 18 of the LAA by the learned ADJ, East District, Karkardooma Courts, Delhi.

5. It is also stated that the subject land is part of an unauthorized colony and that the boundaries of the same were set by way of a memo dated 4th September, 2012. Thereafter, the petition straightaway refers to the passage of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act') and the Petitioners' entitlement to a declaration of lapsing of acquisition on the ground that compensation has not been paid to them.

6. In the counter affidavit filed by the LAC, it is stated that the Petitioners are not the recorded owners of the subject land and are claiming title through an unregistered power of attorney. It is averred that possession of the subject land was taken and handed over to the DDA on 1st October, 1982. It is further averred that compensation of Rs. 62,100/- has been paid to one Shri Kartar Singh on 30th June, 1989.

7. In the counter affidavit filed by the DDA, it is stated that physical possession of the subject land was taken on 1st October, 1982 and handed over to the DDA on 14th October, 1982. It is further averred that a compensation of Rs. 82,10,540/- was paid to the L&B Department by way of cheque no. 536943 dated 21st September,

1982. It is also averred that enhancement compensation of Rs.11,45,65,892/- was released to the L&B Department by way of cheque No. 642919 on 22nd October, 2014.

8. The Petitioners have not filed a rejoinder to the counter affidavit of the LAC or the DDA. From the averments in the writ petition itself, it emerges that the subject land forms a part of an unauthorized colony. On the website of the Department of Urban Development of the GNCTD, the complete list of unauthorized colonies in respect of which tentative application forms and tentative layout plans have been submitted and which are awaiting regularization has been put up. Chilla Saroda Bangar is one of those unauthorized colonies, which figures at S. No. 766.

9. 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* 173 (2019) 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*) negated 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
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W.P.(C) No.3438/2015 (*Krishna Devi v. Union of India*). As clarified in those orders, the dismissal of the present petition will not come in the way of the Petitioner pursuing the claim for regularization of the unauthorized colony in question.

11. Consequently, the reliefs prayed for in the petition cannot be granted. The writ petition is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

July 10, 2019
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