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

+ **W.P.(C) 56/2017**

**CHANDER BHAN AND ORS** ..... Petitioners

Through: Ms. Sunanda Tulsyan, Advocate

versus

**LT GOVERNOR NCT OF DELHI AND ORS** ..... Respondents

Through: Mr. Yeeshu Jain & Ms. Jyoti Tyagi,  
Advocates for Respondent/LAC/L & B

Mr. Dhanesh Relan, Standing counsel  
with Mr. Rajeev Jha & Ms. Komal Sorout,  
Advocates for Respondent/DDA

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE SANJEEV NARULA**

**ORDER**

% **30.01.2019**

1. 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;

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 Sect on 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 Petitioners 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.”

2. It is stated in the petition that the notification under Section 4 of the Land Acquisition Act, 1894 (LAA) was issued on 21<sup>st</sup> March, 2003 followed by declaration under Section 6 of the LAA on 19<sup>th</sup> March, 2004 and the Award No.12/2005-06 was passed.

3. It is also stated that in the earlier round the Petitioner has challenged the land acquisition proceedings by filing WP(C) No.2501/2013 which was dismissed by this Court on 17<sup>th</sup> April, 2013. SLP(C) No. 17121/2013 challenging the said order came to be dismissed by the Supreme Court on 10<sup>th</sup> May, 2013.

4. In *Indore Development Authority v. Shailendra* (2018) 3 SCC 412 where the Supreme Court held:

**“128. In our considered opinion section 24 cannot be used to revive the dead or stale claims and the matters, which have been contested up to this Court or even in the High Court having lost the cases or where reference has been sought for enhancement of the compensation.** Compensation obtained and still it is urged that physical possession has not been taken from them, such claims cannot be entertained under the guise of section 24(2). We have come across the cases in which findings have been recorded that by which of drawing a Panchnama, possession has been taken, now again under Section 24(2) it is asserted again that physical possession is still with them. Such claims cannot be entertained in view of the previous decisions in which such plea ought to have been raised and such decisions would operate as res judicata or constructive res judicata. As either the plea raised is negatived or such plea ought to have been raised or was not raised in the previous round of litigation. Section 24 of the Act of 2013 does not supersede or annul the court’s decision and the provisions cannot be misused to reassert such claims once over again. Once Panchnama has been drawn and by way of drawing the Panchnama physical possession has been taken, the case cannot be reopened under the guise of section 24 of Act of 2013.” (emphasis supplied)

5. The Petitioners having already unsuccessfully challenged the land acquisition proceedings in the earlier round, cannot possibly seek relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. Moreover, in the counter affidavit filed by the LAC on 28<sup>th</sup> May, 2018, to which no rejoinder has been filed till date, it has been stated that possession of the subject land was taken way back on 28<sup>th</sup> September, 2005 to 6<sup>th</sup>

October, 2005 and handed over to the beneficiary department. The compensation is also stated to have been paid in 2005. The payment of compensation has not been denied by the Petitioners themselves.

7. As far as the question of possession is concerned, the acquisition proceedings were for the public purpose of the Rohini Residential Scheme. In light of the order dated 18<sup>th</sup> October 2016 passed by the Supreme Court in certain IAs in SLP (C) 16385-88 of 2012 (*Rahul Gupta v. Delhi Development Authority*), possession of the said lands is deemed to be with the DDA.

8. Consequently, there is no merit in this petition and it is dismissed as such.

**S. MURALIDHAR, J.**

**SANJEEV NARULA, J.**

**JANUARY 30, 2019**

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