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

+ **W.P.(C) 12760/2018 & CM APPL. 49536/2018**

NARENDER PAL SINGH

.... Petitioner

Through: Mr. Mukesh Kumar Verma,
Advocate

versus

GOVT. OF NCT OF DELHI & ORS.

.... Respondents

Through: Mr. Yeeshu Jain, Standing
Counsel along with Ms. Jyoti Tyagi,
Advocate.

Mr. Arun Birbal, Advocate for DDA.

+ **W.P.(C) 12766/2018 & CM. APPL. 49546/2018**

BHAGAT SINGH AND ORS.

.... Petitioners

Through: Mr. Mukesh Kumar Verma,
Advocate

versus

GOVT. OF NCT OF DELHI & ORS.

.... Respondents

Through: Mr. Yeeshu Jain, Standing
Counsel along with Ms. Jyoti Tyagi,
Advocate.

Mr. Pawan Mathur, Advocate for
DDA.

+ **W.P.(C) 12771/2018 & CM. APPL. 49590/2018**

RAJESH BANSILAL DHUPARE AND ANR.

... Petitioners

Through: Mr. Mukesh Kumar Verma,
Advocate.

W.P.(C) 12760/2018 and connected matters

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Through: Mr. Yeeshu Jain, Standing
Counsel along with Ms. Jyoti Tyagi,
Advocate.

Mr. Arun Birbal, Advocate for DDA.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

31.07.2019

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1. These are three petitions arising out of a similar set of facts and seeking similar reliefs and are accordingly being disposed of by a common order. Nevertheless, they were heard separately.

2. For the sake of convenience the facts of W.P.(C) 12670/2018 [*Narender Pal Singh v. Govt. of NCT of Delhi*] are referred to first. The prayer in the said petition reads as under:

“i. Issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of petitioner land measuring 1 Bigha comprised in Khasra No. 279 (4-07) situated in revenue estate of Village Chhattarpur, New Delhi including the notification bearing no. F9(16)80/L&B dated 25.11.1980 issued under section 4 of the Land Acquisition Act, 1894 and all subsequent proceedings to have lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.”

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3. The background facts are that the land admeasuring 1 *Bigha* in Khasra No. 279 (4-07) is situated in the revenue estate of Village Chhattarpur, New Delhi (hereafter 'subject land'). It was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 ('LAA') on 25th November, 1980 for the public purpose of "planned development of Delhi". This was followed by a declaration under Section 6 of the LAA on 7th June, 1985. The Land Acquisition Collector ('LAC') passed an award being Award No. 15/1987-88.

4. As far as the Petitioner is concerned, it is stated in the petition that the name of one Swami Bodhanand was recorded in the revenue record pertaining to 4 *Bighas* 7 *Biswas* in Khasra No. 279. A copy of the *Khatauni* for the year 1980-1981 has been annexed with the petition. It is stated that Swami Bodhanand executed a Will in favour of one Pradhan Chela Swami Yogeshwaranand dated 27th May, 2010. It is further stated that the Petitioner became "the absolute owner and in possession" of the subject land by way of a registered General Power of Attorney ('GPA') dated 14th December, 2016.

5. Apart from this not being a valid instrument for transfer of title, it appears that the Petitioner having full knowledge of the status of the land in question, and without taking permission from the competent authority, in terms of the Delhi Land (Restriction of Transfer) Act, 1972 entered into the said transaction.

6. It is averred in the petition that the Petitioner continues to be in actual physical possession of the subject land. It is also averred that the compensation pursuant to the impugned award was not paid to the Petitioner or deposited in the Court under Section 31 of the LAA. It is also averred that no notice was issued to the Petitioner after passing of the impugned Award calling upon the Petitioner to receive compensation. Thereafter, the petition straightaway refers to the enactment of The Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement, Act 2013 ('2013 Act') and the Petitioner's entitlement to a declaration of deemed lapsing under Section 24 (2) of the said Act on the ground that neither was possession taken nor was compensation paid.

7. As far as the companion writ petitions are concerned, the prayers are nearly identical inasmuch they too pertain to the land in Khasra No. 279. Akin to the Petitioner in W.P.(C) 12760/2018, the Petitioners in the companion writ petitions also claim title over portions of Khasra No. 279 by way of the GPA dated 14th December, 2016.

8. A counter affidavit has been filed on behalf of the DDA in W.P. (C) 12766/2018. It has been averred therein that the petition is hit by delay and laches. It is also averred that the Petitioners have no *locus* to file the instant petition as they have claim to have rights over already acquired land by way of a GPA. It is further averred that the land falling in Khasra No. 297 has not been bequeathed in favour of Shri Yogeshwaranand Puri as per the Will dated 27th May, 2010. It is stated that possession the land falling in Khasra No. 297 (4-07) has not been handed over by the LAC to the DDA. It is

further stated that the status of disbursement to the recorded owners can be correctly pointed out only by the LAC. It is averred that a sum of Rs.100 Crores was remitted by the Central Government to the L&B Department, Government of NCT of Delhi for acquisition of 13 villages, which includes Village Chhattarpur. It is also averred that the petition gives rise to disputed questions of fact. No rejoinder has been filed by the Petitioners in W.P. (C) 12766/2018 to the counter affidavit of the DDA.

9. During the course of hearing it transpired that the Village Chhattarpur, where the lands constituting the subject matter of all the petitions is situated, is 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. Village Chhattarpur is one of those unauthorized colonies, which figures at S. No. 1622. Clearly, therefore, the property in question forms part of the unauthorized colony.

10. 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 this 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 unauthorised colony. The very basis for seeking regularisation of an unauthorised 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 regularisation on the basis that they are in unauthorised colony would be an admission that they do not otherwise have any valid right, title or interest in the land in question.

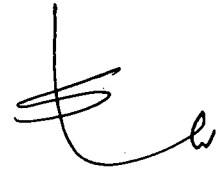
49. This Court has by order dated 19th December 2018 in WP(C) No.190/2016 (*Harbhagwan Batra v. Govt. of NCT of Delhi*) and order dated 8th January 2019 in WP(C) No.10201/2015 (*Gurmeet Singh Grewal v. Union of India*) negatived similar pleas by the Petitioners who were trying to seek similar declaration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

11. 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*). As clarified in those orders, the dismissal of the present petition will not come in the way of the Petitioner pursuing the claim for regularisation of the unauthorised colony in question.

12. Consequently, the reliefs prayed for in the petitions cannot be granted. The writ petitions are dismissed. The applications are disposed of.



S. MURALIDHAR, J.



TALWANT SINGH, J.

JULY 31, 2019

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