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

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SHIV CHARAN

W.P. (C) 7910/2015

..... Appellant

Through: Mr Akhil Sachar and Ms Sunanda,
Advocates.

versus

THE LT. GOVERNOR, NATIONAL CAPITAL
TERRITORY OF DELHI & ORS.

..... Respondents

Through: Mr Dhanesh Relan, Standing Counsel
for DDA with Ms Komal, Advocate.
Mr Yeeshu Jain, Standing Counsel for
LAC/L&B with Ms Jyoti Tyagi,
Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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18.07.2019

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 27.10.1999 being Notification No. F. 10(29)/96 /L&B /LA/11394 issued under Section 4 of the Land Acquisition Act, 1894 issued in respect of the land forming part of Village Prehladpur Banger 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 3.4.2000 being No. F. 10(29)/96/L&B/LA/20 under Section 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 declaration dated 20.3.2013 being F.10(29)/96/L&.B/LA/19599 under Section 6 of the Land Acquisition Act, 1894 quash and set aside the same;

d) 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. 14/2002-03 dated 8.7.2002 and Award No. 07/2014-15/DC/N dated 19.3.2015 quash and set aside the same;

e) 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 land forming part of Khasra Numbers as indicated in the Schedule-A;

f) Issue a Declaration that the acquisition proceedings with respect to the land of the Petitioner as indicated in Schedule-A be deemed to have lapsed”

2. The present petition has been filed by Mr Shiv Charan, whose address is given as Wazirpur JJ. Colony, Delhi. From the memo of parties, it appears that the Petitioner is represented by his Power of Attorney holder, one Mr Shakti Agarwalla, who is a resident of Cariappa Marg in New Delhi. It is not explained why the Petitioner could himself not have filed the present petition. When inquired, Mr Akhil Sachar, learned counsel appearing for the Petitioner, drew the attention of the Court to a copy of the General Power of Attorney (‘GPA’) dated 26th March, 2008 purportedly executed by the said

Shri Shiv Charan in favour of Shri Agarwalla.

3. Although learned counsel for the Respondents pointed out that this was an unregistered GPA, Mr Sachar insisted that the original registered GPA was in his possession and he was ready to produce it. However, that is the least of the problems that arise in this regard. In the first place, the GPA was not registered in Delhi, but in Jalandhar, Punjab, even though neither Mr Shiv Charan nor Mr Agarwalla have their permanent addresses there. When inquired about this, Mr Sachar volunteered that at the relevant point in time, GPAs of this kind were not registered in Delhi, and therefore, the parties went to Jalandhar for the same.

4. The Court is not satisfied with the above explanation given. For a person residing in the JJ Colony, Wazirpur in Delhi, to be executing a GPA in respect of immovable property in favour of another person residing in Cariappa Marg in New Delhi, and then seeking to file the present petition through that person goes to show that there is clearly more than meets the eye. The Court is not satisfied that the Petitioner has made a complete disclosure of all the relevant facts for the purposes of seeking the reliefs in the present petition.

5. Interestingly, in support of the plea that the Petitioner continues to be in possession of the land in respect of which relief is being sought under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act'), the Petitioner has enclosed as Annexure-I, a photograph figuring two persons standing in front of a vacant plot, holding the newspaper 'Punjab Kesari' in

Hindi, without indicating as to who those persons are. Learned counsel for the Respondents points out that in at least 20 writ petitions in this Court, similar photographs featuring one of these persons has been enclosed. It is wondered as to how the same person could be filing so many petitions in this Court seeking similar reliefs under Section 24 (2) of the 2013 Act.

6. A perusal of the writ petition itself shows that as far as Annexure-I is concerned, the narration is that “copy of the coloured photograph signifying the physical possession of the Petitioner is annexed and marked hereto as Annexure-I”. However, there is no description as to which of the persons in the photograph is actually the Petitioner. Also, it is not clear as to why the same person should be featuring in similar photographs in several petitions before this Court. The more questions that were asked of Mr Sachar, the more mysterious the circumstances under which the present petition was filed seem.

7. Now to turn to the petition itself, the challenge, as noted hereinbefore, is not only to the earlier notification dated 27th October, 1999 under Section 4 of the Land Acquisition Act, 1894 (‘LAA’), but to the subsequent declarations dated 3rd April, 2000 and 20th March, 2013 under Section 6 of the LAA as well as to the Award No. 14/2002-03 dated 8th July, 2002, as well as an Award No. 7/2014-15 dated 19th March, 2015. The land in respect of which such relief is being claimed is not described anywhere in the petition. The prayer clause simply refers to the subject land being Khasra numbers which have been indicated in ‘Schedule-A’ and this describes the property as being 500 square yards out of Khasra No. 53//22 in the Revenue

Estate of Village Prehladpur Banger, Delhi. According to the Petitioner, the said land was sold by one Puran Chand to the Petitioner by registered Sale Deed dated 15th November, 1996. The said land is covered under the notification dated 27th October, 1999 under Section 4 of the LAA and the declaration under Section 6 of the LAA on 3rd April, 2000.

8. The case of the Petitioner is that the physical possession of the land continues to remain with him and that he has not been offered / tendered compensation in respect thereof. Reference is made in the petition to the decision of the Supreme Court dated 21st March, 2012 in Civil Appeal No.3513/2017 (***Sunil Goel v Union of India***) whereby the declaration dated 3rd April, 2000 under Section 6 of the LAA was quashed with liberty to the Competent Authority to invite fresh objections under Section 5-A of the LAA. This was followed by the Respondent No. 2 (LAC) issuing the impugned declaration under Section 6 LAA dated 20th March, 2013, which again was struck down by this Court by its decision in ***Sunil Goel v State (2014) 211 DLT 382 (DB)***. It is pointed out that the SLP against the said decision stood dismissed by the Supreme Court. Mr Sachar placed reliance on the judgment dated 6th August, 2018 in W.P.(C) No.8080/2015 (***Rakesh Kumar v Lt. Governor of Delhi***) where a Division Bench of this Court has in similar circumstances granted the declaration of deemed lapsing of the land acquisition proceedings in respect of the land comprised in Khasra No. 53/11 (10 Biswas) and Khasra No. 53/12 (11 Biswas) located in the same Village Prehladpur Banger, Delhi. He accordingly submitted that the same relief ought to be granted in the present petition as well. The Court is not inclined to grant such relief because the Petitioner here has not demonstrated

his *bonafides*. It is not clear as to why a resident of the JJ Colony in Wazirpur, Delhi would give a GPA to another person in New Delhi to file the present petition. It is hard to believe that this was done without any monetary consideration. The Court is not satisfied that the Petitioner has come to the Court with clean hands by disclosing all the material facts necessary for the grant of discretionary relief to him. Merely because in another petition, relief has been granted to other Petitioners who may be persons interested in lands located in the same village forming subject matter of the notification dated 20th March, 2013 under Section 6 of the LAA, would not result in the Petitioner herein being automatically granted the same relief. The remedy under Article 226 of the Constitution is a discretionary one. Unless the Court is satisfied that the Petitioner has come to the Court with clean hands, it is not obliged to grant such relief.

9. The other important aspect, which does not appear to have been noticed in the order dated 6th August, 2018 in ***Rakesh Kumar v Lt. Governor of Delhi*** is that the acquisition is for the public purpose of the Rohini Residential Scheme ('RRS'). The Supreme Court has in the orders dated 10th March, 2015, 28th January, 2016 and 18th October, 2016 in SLP(C) No. 16385-16388 of 2012 titled ***Rahul Gupta v. Delhi Development Authority*** clarified that if possession of the land in question was not handed over to the DDA within 10 days of the last mentioned order, the DDA would be deemed to be in possession thereof. Therefore, even in respect of the land in question, with the Petitioner not having handed over possession to the DDA as claimed in the petition, within 10 days of 18th October, 2016, the DDA would be deemed to be in possession thereof. Therefore, the assertion of the Petitioner

that he continues to be in actual physical possession of the land in question is to no avail whatsoever. In the present case, on 24th August, 2015, this Court passed a status quo order in the present petition and this prevented the LAC from taking possession of the land in question. However, pursuant to the declaration dated 20th March, 2013 under Section 6 LAA, Award No.7/2014-15 came to be passed. In respect of such an award, which was passed within 5 years of the coming into force of the 2013 Act, the question of granting any relief under Section 24 (2) of the 2013 Act, as sought for by the Petitioner, would not arise. Since the interim order of status quo has continued at least till date, the Petitioner cannot possibly take advantage of the failure of the Respondents to take actual physical possession of the land in question.

10. On the issue of payment of compensation, with the Petitioner not parting with possession, the question of the Respondents paying compensation therefore did not arise.

11. For all of the aforementioned reasons, none of the reliefs sought for in the present petition can be granted. The petition is accordingly dismissed. No costs. The abovementioned interim order dated 24th August 2015 as confirmed on 15th February 2018 is hereby vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 18, 2019
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