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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13210/2018 & CM APPL. 51270/2018**

KEWAL SEHGAL AND ANR.

..... Petitioners

Through: Mr. Akhil Sachar, Advocate

versus

**THE LT. GOVERNOR, OF NCT OF DELHI
AND ORS.**

..... Respondents

Through: Mr. Ajay Verma, Senior Standing
Counsel for DDA along with Mr. G.S.
Oberoi, Advocate, Ms. Disha Sachdeva,
Advocate, Mr. Armaan Verma, Advocate.
Mr. Sachin Nawani, Advocate for
LAC/L&B

**CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH**

**ORDER
22.07.2019**

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1. The prayers in 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 admeasuring 1368 square yards in Khasra No. 45/5/2 situated in the Revenue Estate of Village Prahlad Pur Bangar, Delhi 110042 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 20.3.2013 being F.10 (29)/96/L&B/LA/19599 under Section 6 of the Land Acquisition Act, 1894 or any further steps consequent thereto 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.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;

d) Issue a Declaration that the acquisition proceedings with respect to the land of the Petitioners bearing 1368 square yards in Khasra No. 45/5/2 situated In the Revenue Estate of Village Prahlad Pur Bangar, Delhi 110042 be deemed to have lapsed;

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 land admeasuring 1368 square yards in Khasra No. 45/5/2 situated in the Revenue Estate of Village Prahlad Pur Bangar, Delhi 110042.”

2. The background facts are that the land in question i.e. 1368 square yards in Khasra No. 45/5/2 situated in the Revenue Estate of Village Prahladpur Bangar, Delhi 110042 (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 27th October, 1999 for the “public purpose of the Rohini Residential Scheme”. This was followed by a declaration under Section 6 of the LAA dated 3rd April, 2000. The Land

Acquisition Collector ('LAC') passed an award being Award No. 14/2002-03 dated 8th July, 2002.

3. As far as the Petitioners are concerned, it is stated in the writ petition that the Petitioners are the owners of the subject land by virtue of a sale deed dated 6th July, 1974. A copy of the sale deed has been annexed with the petition. It is averred in the writ petition that the Petitioners continue to be in physical possession of the subject land and have not been paid any compensation.

4. It is also stated that the subject land forms part of Prahladpur Bangar Colony, which appears at Serial No. 907 in the list of unauthorized colonies proposed to be regularized. It is averred that a writ petition being W.P.(C) 2199/2000 was filed by landowners in this Court, challenging the LAA Section 4 notification and Section 6 declaration. The subject land was included therein. It is stated that when that the said writ petition was dismissed by the judgment of this Court dated 9th July, 2007 an SLP 17951-17952 of 2007 was filed before the Supreme Court and that at that stage as well the land bearing Khasra No. 45/5/2 was included.

5. It is stated that the Supreme Court in the aforesaid SLP stayed the operation of the judgment of this Court. Reference was also made to the Supreme Court's order in **Krishan Kumar Gupta v. Union of India** [Civil Appeal No. 3017-3018/2012], where the Supreme Court, pursuant to its judgment in **Ram Dhari Jindal Memorial Trust v. Union of India AIR 2012 SC 1878** quashed the LAA Section 6 declaration dated 3rd April, 2000.

6. It is averred that the fresh LAA Section 6 declaration dated 20th March, 2013 was also challenged by way of a writ petition before this Court in W.P.(C) 3049/2013 and that this Court had held that the said declaration was a nullity for having been made beyond the time period prescribed under Section 6 (1) of the LAA.

7. Thereafter, the petition 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 deemed lapsing under Section 24 (2) of the said Act on the ground that possession of the subject land remains with the Petitioners and compensation has not been paid.

8. What emerges from the averments in writ petition itself is that the subject land forms part of Prahladpur Bangar Colony, which appears at Serial No. 907 in the list of unauthorized colonies proposed to be regularized. 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.”

9. 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*). However, as clarified

therein, the dismissal of the present petition will not come in the way of the Petitioners pursuing the claim for regularization of the unauthorized colony in question.

10. There is yet another aspect to the matter. From a perusal of the impugned Award pertaining to the subject land, it also emerges that the subject land was acquired for the purpose of the Rohini Residential Scheme. If in terms of the impugned Award, the land was acquired for public purposes of the Rohini Residential Scheme, then by virtue of the order dated 18th October 2016 of the Supreme Court of India in SLP (C) Nos. 16385-16388 of 2012 (*Rahul Gupta v. DDA*) even if on the date of the said order of the Supreme Court, actual physical possession was not with the DDA, if such physical possession was not handed over to the DDA within ten days thereafter, the DDA would be deemed to be in possession of the lands in question. Therefore, even on the Petitioners' own showing, the possession cannot be said to be with them. In the circumstances, it is not possible to grant the Petitioners relief under Section 24 (2) of the 2013 Act.

11. Consequently, the Court finds no merit in this writ petition and it is dismissed as such. The application for stay is also dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 22, 2019

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