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

+ **W.P.(C) 10478/2017**

SHRI MAHENDER LAL SACHDEVA & ANR. Petitioners
Through Mr. Mukesh Sachdeva, Advocate
versus

UNION OF INDIA & ORS. Respondents
Through Mr. Anil Dabas for UOI
Ms. Ruchika Rathi and Ms. Sanya
Dua for LAC/L&B

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE I.S. MEHTA

ORDER

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26.04.2019

1. The prayers in the present petition read as under:

“a) issue a writ of mandamus or any other writ, order or direction for quashing/declaring all the acquisition proceedings initiated under the land acquisition act, 1894 and resulting in award no. 164 dt. 08.06.1987 of village Matiala, Delhi in respect of the land measuring 10 biswa pertaining to Khasra no. 24/4 and Khasra no. 15/24 situated within the revenue estate of village Matiala, Delhi stand lapsed under section 24(2) of right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act, 2013.

b) Pass such other or further order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case be also passed in favour of the petitioners..”

2. The facts are that land in question i.e. Khasra No. 24/4 and 15/24(500 Sq. yards) located in the revenue estate of village Matiala, Delhi was notified

under Section 4 of the Land Acquisition Act (LAA), 1894 on 27th January 1984. This was followed by declaration under Section 6 of LAA on 18th September 1984. The Land Acquisition Collector (LAC) passed the impugned Award No. 164/1986-87 on 19th September 1986.

3. It is stated in para 2 of the petition that the Petitioners purchased land comprised in Khasra No. 24/4 on 22nd August 1983 from Shri Chander Singh and the wife of the Petitioner No.1, purchased land comprised in Khasra No. 15/24 on 22nd August 1983 from Smt. Ratna Devi in village Matiala, Delhi Estate, Delhi.

4. Enclosed as Annexures P-2 and P-3 collectively are the sale documents. A close scrutiny of the document shows that although the subject land for which the prayer is made comprises in Khasra Nos. 24/4 and 15/24, however, both the sale deeds attached along with the Petition are for Khasra No. 15/12 which is not the subject matter of the present petition. It is further also noticed that in the writ petition the Petitioners mention that both sale deeds are dated 23rd August 1983 whereas sale deed executed in favour of the Petitioner No.1 is dated 20th August 1983 and the sale deed executed in favour of the wife of the Petitioner is dated 27th July 1983.

5. The Petitioners claim that after passing of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act'), they are entitled to the relief under Section 24 (2) thereof since no compensation has been paid and the physical possession of the land in question remains with them. Further, the date of passing of the Award is

more than five years prior to 1st January, 2014 i.e. the date of the 2013 Act coming into force.

6. In the counter affidavit of the LAC it is stated that physical possession of Khasra Nos. 15/24(4-16) and 24/4(4-13) was taken and handed over to the Delhi Development Authority (DDA) on 9th October 1986 and 20th January 2005 respectively. It is stated that compensation has not been paid as the land belongs to Gram Sabha. It is also stated that the Petitioner No.1 is not the recorded owner of the land which is the subject matter of this writ petition. It is further stated that the Petitioners are subsequent purchasers of the land in Khasra No. 15/12, and such land is not subject matter of this writ petition. It is pointed out that the Petitioners have not produced on record any documents whatsoever to show that they have any form of title or interest over the lands comprised in Khasra Nos. 24/4 and 15/24 in Village Matiala.

7. No rejoinder has been filed to the counter affidavit of the LAC.

8. Therefore, based on the documents provided by the Petitioner, the Court is not at all persuaded that the Petitioner even has a valid title over the subject land for which the relief of deemed lapsing has been claimed.

9. Moreover, in the course of the hearing, it transpired that Village Matiala is one of the unauthorized colonies in respect of which a provisional regularization certificate has been issued. 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 had been submitted and which are awaiting regularization has been put up. Matiala/Matiyala is one of those unauthorized colonies, which figures at S.No.333, 828, 995, 1122, 1244 and 1315. 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 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 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 petition cannot be granted. The writ petition is dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 26, 2019

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