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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P. (C) 12983/2018**

RAJ SINGH

.... Petitioner

Through: Mr. R.S. Dalal, Advocate

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Yeeshu Jain along with Ms. Jyoti Tyagi, Advocates for LAC/L&B
Mr. Dhanesh Relan, Standing Counsel for DDA along with Ms. Gauri Chaturvedi, Advocate for DDA
Mr. Bhagwan Swarup Shukla, Advocate for CGSC
Mr. Saravan Kumar, Advocate for Union of India

+ **W.P.(C) 12987/2018**

SURENDER SINGH & ORS.

.... Petitioners

Through: Mr. R.S. Dalal, Advocate

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Yeeshu Jain along with Ms. Jyoti Tyagi, Advocates for LAC/L&B
Ms. Swathi V. and Hashmat Nabi, Advocate for Delhi Waqf Board
Mr. Bhagwan Swarup Shukla, Advocate for CGSC
Mr. Mukesh Kumar Pandey, Advocate for Union of India

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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16.07.2019

1. These are two petitions arising out of a similar set of facts and seeking similar relief and are accordingly disposed of by the present common order. Nevertheless, both petitions were heard separately.

2. For the sake of convenience the facts in W.P.(C) 12983/2018 (***Raj Singh v. Union of India***) are referred to first. The prayers in the said petition read as under:

“(I) Issue writ of DECLARATION and/or any other appropriate Writ, Order or Direction in the like nature declaring the impugned acquisition proceedings lapsed, commenced vide notification under Section 4 of Land Acquisition Act 1894 bearing notification No. F.11 (19) 2001/L & B /LA/20112 Dated 21/03/2003 under Section 4 of Land Acquisition Act, 1894; declaration under Section 6 of the Land Acquisition Act vide notification no. F. 11(11)/2004/L&B /LA/28281, resulting in Award no. 12/2005-06 vis-a-vis land admeasuring 2 Bighas comprised in Khasra Nos. 37//21(1-00) and 49//3(1-00) situated in revenue estate of Village Barwala Delhi;

(II) Consequently issue writ of CERTIORARI quashing the impugned quashing the impugned acquisition proceedings commenced vide notification No. F.11(19) 2001/L & B/LA/20112 Dated 21/03/2003 under Section 4 of LA Act, 1894; declaration under Section 6 of the Land Acquisition Act vide notification no. F.11(11)/2004/L&B /LA/28281, resulting in Award no. 12/2005-06 of village Barwala, Delhi vis-à-vis land admeasuring 2 Bighas comprised in Khasra Nos.37//21(1-00) and 49//3(1-00) situated in revenue estate of Village Barwala, Delhi;

(III) Issue MANDAMUS and/or any other Writ, Order or direction in the like nature commanding the respondents not to interfere with and/or obstruct the Petitioner in peaceful enjoyment of the subject land i.e. land admeasuring 2 Bighas comprised in Khasra Nos. 37//21(1-00) and 49//3(1-00) situated in revenue estate of Village Barwala, Delhi;

(IV) Issue MANDAMUS and/or any other Writ, Order or direction in the like nature commanding the respondents to assess the amount of compensation as per the New Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

3. In respect of the acquisition of the land in question a notification under Section 4 of the LAA was issued on 21st March, 2003 for the public purpose of the Rohini Residential Scheme. This was followed by a declaration under Section 6 of the LAA on March 19th, 2004. The Land Acquisition Collector (‘LAC’) passed Award No.12/2005-06/DC (N-W) dated 5th August, 2005 in respect of land admeasuring 6129 *Bighas* 10 *Biswas* in village Bawana.

4. According to the Petitioner, he is the recorded owner of 2 *Bighas* in Khasra Nos.37//21 (1-00) and 49//3(1-00) in Village Barwala. It is stated in the writ petition that the Petitioner continues to be in physical possession of the land in question and that “barring the Petitioner compensation has not been paid/tendered and/or deposited to majority of the landowners in the village”.

5. A counter affidavit has been filed on behalf of the DDA. It is stated therein that the Petitioner has not produced any document to show that he has any right, title or interest in the land in question. It is averred that the land in question was acquired for the purpose of the Rohini Residential Scheme and that the Supreme Court in *Rahul Gupta v. DDA* is monitoring the development of the said scheme. It is further averred that physical possession of the said land was handed over to the DDA by LAC (South) on 6th October, 2005. A copy of the possession proceedings has been

annexed. It is also averred that compensation for acquisition of village Barwala was disbursed by the DDA to the L&B Department by way of three cheques dated 9th September, 2005. A copy of the payment register has also been annexed. No rejoinder has been filed by the Petitioner to the aforesaid counter affidavit.

6. As far as the companion writ petition W.P. (C) 12987/2018 (***Surender Singh & Ors. v. Union of India & Ors.***) is concerned, the prayers in the said writ petition are more or less similar in that the Petitioners have challenged the same land acquisition proceedings. Prayer ‘(I)’ of the writ petition reveals that the land forming the subject matter of the petition is 1 *Bigha* comprised in Khasra No. 46//17/1. The Petitioners aver that they are co-owners of the said land, which was previously in the ownership of the Delhi Wakf Board.

7. A counter affidavit has been filed on behalf of the LAC in which it is stated that the Petitioners have not produced any document to demonstrate right, title or interest over the land forming the subject matter of their petition. It is specifically averred that the recorded owner of the land is the Delhi Waqf Board and that the Petitioners’ father Shri Amrit Singh has been shown as the cultivator as per the *Jamabandi* for the year 2003-04. It is also averred that the subject land has been acquired for the public purpose of the Rohini Residential Scheme. It is stated that possession of the land in question was taken and handed over to the DDA on 6th October, 2005. It is submitted that the Delhi Waqf Board, which is the recorded owner, has never approached the LAC for compensation and that compensation is lying

in the account of the LAC. No rejoinder has been filed by the Petitioners to the counter affidavit of the LAC.

8. It must be noted that the same land acquisition proceedings in respect of lands in the Revenue Estate of Village Barwala, were challenged in an earlier round of litigation by way of a batch of writ petitions where the lead matter was W.P. (C) 2501/2013 (***Naresh Kumar & Ors. v. Union of India***), By a detailed judgment dated 17th April 2013, a Division Bench (DB) of this Court dismissed the writ petition *inter alia* holding as under:

“We, at the inception, put to learned senior counsel for the petitioners as to why and how can we permit a settled position to be unsettled after a decade. This is so as the petitioners chose to remain silent when the acquisition proceedings were initiated, accepted the same, took compensation and sought references for enhancement of compensation. The aforesaid facts have to be examined in the conspectus of the purpose for which the land was acquired which was planned development of Rohini Residential Scheme. In Delhi there has been large scale acquisition by the DDA which was originally the only authority which was engaged in development of land and meeting the housing needs of the people. No doubt in this process while large tracts of land were acquired, some land remain undeveloped and the DDA could not protect its land pool with the result encroachment took place. These encroachments have been on such a massive scale with practically no prevention that a large part of habitants of Delhi reside in these colonies. The Government has come up now with schemes of regularization of these colonies.

Rohini Residential Scheme like other schemes is in the nature of a mini township. Such a mini township will contain all the essential features, i.e. residential areas, commercial areas, institutional areas. Thus, while there will be development of residential plots, there would also be development of commercial

areas to take care of the needs of residents. These may be shopping arcades or there may be hotel sites, etc. Similarly there would be institutional requirements like for purpose of schools, hospitals, community facilities, etc. If land is allotted for all these purposes it cannot be said that the purpose of acquisition has disappeared or there is mala fide exercise of the power of acquisition. The DDA would spend large amount of monies on development of the area and, thus, to have a transparency auction is often the method, adopted for allotment, at least, with commercial areas while in case of residential areas there may be auction of plots or particular schemes under which plots and flats are allotted. It may be possible even to allot land to certain societies for their needs. Similarly hotel sites and commercial buildings are often auctioned.

We are, thus, of the view that the nature of allegations made in this writ petition cannot be said of such a nature as to suggest that there is a mala fide exercise of power or improper use of the land, which has been acquired.

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We are of the view that the petitioners cannot after such a long period seek to rake up the issue of acquisition merely on the basis of some recent pronouncements by the Hon'ble Supreme Court even when they accepted the compensation qua acquisition of the land by neither challenging the acquisition proceedings nor the award but on the other hand were only interested in enhancement of compensation for which they have sought a reference. They have also recovered the compensation and for them now to say that they are willing to return that compensation after number of years and should be permitted to assail the acquisition proceedings would not, in our view, be the appropriate direction to be passed.

In view of these facts and circumstances, we are not inclined to entertain the petition seeking to challenge the acquisition proceedings both on grounds of delay and laches as also on account of the acquiescence and conduct of the petitioners qua the acquisition proceedings.

Dismissed.”

9. On 3rd February 2015 the Supreme Court of India passed the following orders in SLP (C) No. 17121/2013 (*Naresh Kumar v. Union of India*) and a batch of special leave petitions (SLPs), all of which were directed against the above order dated 17th April 2013 of the DB of this Court in W.P. (C) 2501/2013 and batch. The order reads as under:

“SLP (C) Nos. 17121, 33188 of 2013 & SLP (C) 17482, 13358 of 2014

Shri T. N. Singh and Dr. Surat Singh, learned counsels for the Petitioners in respective matters on instructions, seek permission of this Court to withdraw these petitions.

Permission sought is granted.

The special leave petitions are disposed of as withdrawn.

Contempt Petition (S) No. 319 of 2013 in SLP (C) 17121 of 2013

In view of the withdrawal of the special leave petition, nothing survives for consideration and decision in this contempt petition. The contempt petition is dismissed in terms of the signed order.”

10. Thus no liberty was granted to the Petitioners in the above matters to challenge the land acquisition proceedings afresh. The order dated 17th April 2013 passed by the DB of this Court in *Naresh Kumar* (*supra*) rejecting the challenge to the land acquisition proceedings *qua* the lands in village Barwala for the Rohini Residential Scheme attained finality.

11. A reference also needs to be made to the orders passed by the Supreme Court on 10th March 2015, 28th January 2016 and 18th October 2016 in SLP

(C) Nos. 16385-88/2012 (*Rahul Gupta v. Delhi Development Authority*) and in the interlocutory applications ('I.As') in the said SLPs. Although, in the order dated 10th March 2015, the Supreme Court referred to the acquisition of land for the Rohini Residential Scheme in Sectors 34, 35, 36 and 37, in the subsequent order dated 18th October 2016, it was made clear that the effect of the said order of the Supreme Court was to be applied to all the lands acquired for the Rohini Residential Scheme. In the order dated 18th October 2016 while disposing of various I.As in the aforementioned SLPs, the Supreme Court directed as under:

“Heard Mr. V. Giri, learned Senior Counsel appearing for the applicants and perused the interlocutory applications.

In view of the order dated 10.03.2015, passed by this Court in SLP (C) Nos. 16385-16388 of 2012, and a subsequent order dated 28.01.2016, passed in the same special leave petitions, the interim order passed by the High Court of Delhi on 04.3.2015 in W.P.(C) No. 1915/2015 (Annexure A-4 in the instant interlocutory applications), is liable to be vacated, and is accordingly vacated.

We grant liberty to the Delhi Development Authority to produce a copy of this order **in all matters, pertaining to land acquisition relating to the Rohini Residential Scheme**, pending before the High Court, for vacation of similar interim directions.

It is made clear that in case the applicants have re-entered possession or otherwise, they shall vacate the said land and hand over its possession forthwith to the Delhi Development Authority, failing which it shall be assumed to be in possession of the Delhi Development Authority, after the expiry of ten days from the passing of the instant order.

With the aforesaid directions, these interlocutory applications stand disposed of.” (emphasis supplied)

12. These directions were repeated in the remaining I.As which were disposed of on the same date i.e. 18th October 2016. In effect therefore, the position is that if anyone still in possession of lands acquired for the Rohini Residential Scheme had not surrendered possession thereof to the DDA within ten days of the order dated 18th October 2016, then the possession thereof was deemed to be with the DDA. It would no longer be open to such persons to contend that actual physical possession of the lands in question remains with them.

13. This legal position has been clarified by this Court in its order dated 22nd November 2018 in W.P. (C) 51118/2016 (*Jawahar Singh v. Lt. Governor*) and reiterated in the order dated 25th January 2019 in W.P. (C) 3438/2015 (*Krishna Devi v. Union of India*).

14. Consequently, the reliefs prayed for in the petitions cannot be granted. The writ petitions are dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 16, 2019/abc