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

Reserved on: 13<sup>th</sup> February, 2019

Decided on: 08<sup>th</sup> March, 2019

+ **W.P.(C) 1974/2015 & CM APPLs. 3543/2015 & 25614/2015**

SHIVI TALWAR

.... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates..

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY  
OF DELHI AND ORS.

....Respondents

Through: Mr. Sanjay Poddar, Sr. Advocate with  
Mr. Yeeshu Jain, Standing counsel  
with Mr. Sanjay Kumar Pathak, Ms.  
Jyoti Tyagi, Mrs. K.K.Kiran Pathak,  
Mr. Sunil Kumar Jha, Mr. Govind  
Kumar & Mr.M.S.Akhtar, Advocates  
for Respondent/LAC/L& B/GNCTD.  
Mr. Dhanesh Relan, Standing  
Counsel with Mr. Rajeev Jha and Ms.  
Koma Sarout, Advocates for DDA.

+ **W.P.(C) 2296/2014 & CM APPL. 4817/2014**

K.K. GARG & ORS

..... Petitioners

Through: Mr. B.S. Maan, Advocate with  
Mr.Vishal Maan and Ms. Smita  
Maan, Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Mukesh Kr. Tiwari, Advocate with Mr. R. Mishra and Mr. Abhishek Rana, Advocate for UOI.  
Mr. Shadan Farasat, ASC for GNCTD with Ms. Hafsa Khan, Advocate.  
Mr. Arun Birbal, Advocate with Mr. Sanjay Singh, Advocate for DDA.  
Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC.  
Mr. Sanjay Kumar Pathak, Mrs. K.K. Kiran Pathak, Mr. Sunil Kumar Jha & Mr. M.S. Akhtar, Advocates for Respondent/LAC/L & B/GNCTD.

+ **W.P.(C) 1639/2015 & CM APPL. 2943/2015**

SATISH KUMAR GARG ..... Petitioner

Through: Mr. Vikrant Goyal, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS ..... Respondents

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

+ **W.P.(C) 4097/2015 & CM APPLs. 7327/2015 & 27884/2015**

SUDEEP KISHORE JAIN ..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &

ORS

..... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Mr. Dhanesh Relan, Standing counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.

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**W.P.(C) 4435/2015 & CM APPL. 8050/2015**

KESHAV KUMAR (HUF)

..... Petitioner

Through: Mr. B.S. Maan, Advocate with Mr. Vishal Maan and Ms. Smita Maan, Advocates.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Bhagvan Swarup Shukla, CGSC for UOI with Mr. Shravan Kumar, Advocate. Mr. Sanjay Kumar Pathak & Mrs. K.K. Kiran Pathak, Mr. Sunil Kumar Jha and Mr. M.S Akhtar, Advocates for L&B/LAC/GNCTD. Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.

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**W.P.(C) 4529/2015**

SHRI KESHAV KUMAR

..... Petitioner

Through: Mr. B.S. Maan, Advocate with Mr. Vishal Maan and Ms. Smita Maan, Advocates.

Versus

UNION OF INDIA & ORS.

..... Respondents

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

Komal Sarout, Advocates for DDA.

+ **W.P.(C) 9893/2015 & CM APPLs. 23934/2015 & 25709/2015**

JAG MOHAN BHANDARI

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms.  
Jyoti Tyagi, Advocate for L&B/LAC.  
Mr. Naveen Kumar Raheja, Advocate  
for DDA.

+ **W.P.(C) 9920/2015 & CM APPLs. 24065/2015 & 25748/2015**

VIJAY BHANDARI

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms.  
Jyoti Tyagi, Advocate for L&B/LAC.  
Mr. Arun Birbal, Advocate with Mr.  
Sanjay Singh, Advocate for DDA.

+ **W.P.(C) 9969/2015 & CM APPL. 24305/2015**

MEKHALA SEN GUPTA

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate

with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS ..... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms.  
Jyoti Tyagi, Advocate for L&B/LAC.  
Ms. Mrinalini Sen with Ms. Niharika  
Jauhari, Advocates for DDA.

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**W.P.(C) 10089/2015**

RATTAN SINGH

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
AND ORS. .... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms.  
Jyoti Tyagi, Advocate for L&B/LAC.  
Mr. Dhanesh Relan, Standing counsel  
with Mr. Rajeev Jha and Ms. Komal  
Sarout, Advocates for DDA.

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**W.P.(C) 10188/2015 & CM APPL. 25148/2015**

ANUP GUPTA

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

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

+ **W.P.(C) 10307/2015 & CM APPL. 25656/2015**

MALA AGGARWAL

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

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

+ **W.P.(C) 10439/2015 & CM APPLs. 26183/2015, 27110/2017**

NEELAM DIWAN

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms.  
Jyoti Tyagi, Advocate for L&B/LAC.  
Mr. Pawan Mathur, Standing counsel  
for DDA.

+ **W.P.(C) 10445/2015 & CM APPL. 26216/2015**

C.P. GUPTA AND ORS.

..... Petitioners

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
AND ORS.

..... Respondents

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

+ **W.P.(C) 10687/2015**

RAJ KUMAR DIWAN

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms.  
Jyoti Tyagi, Advocate for L&B/LAC.

Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.

+ **W.P.(C) 10961/2015 & CM APPL. 28190/2015**

KARTAR SINGH AND ANR ..... Petitioners  
Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar and Ms. Raunika Johar, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI AND ORS. .... Respondents  
Through: Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.

+ **W.P.(C) 11566/2015 & CM APPL. 30624/2015**

GINNI FANANCIAL SERVICES LTD. .... Petitioner  
Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS ..... Respondents  
Through: Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.



+ **W.P.(C) 11812/2015 & CM APPL. 31371/2015**

HARSH VARDHAN SARDA ..... Petitioner  
Through: Mr. Sanjay Vashistha, Advocate with  
Mr. Anand Kumar Dubey, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS ..... Respondents  
Through: Mr. Sanjay Kumar Pathak with Mrs.  
K.K. Kiran Pathak, Mr. Sunil Kumar  
Jha and Mr.M.S. Akhtar, Advocates  
for L & B/LAC/ GNCTD.  
Mr. Dhanesh Relan, Standing  
Counsel for DDA with Mr. Rajeev  
Jha and Ms. Komal Sarout, Advocates  
for DDA.

+ **W.P.(C) 11824/2015 & CM APPL. 31408/2015**

PUSHPA SHARMA ..... Petitioner  
Through: Mr. Sanjay Vashistha, Advocate with  
Mr. Anand Kumar Dubey, Advocates.

versus

GOVT OF NCT OF DELHI & ORS ..... Respondents  
Through: Mr. Sanjay Kumar Pathak with  
Mrs.K.K. Kiran Pathak, Mr. Sunil  
Kumar Jha and Mr. M.S. Akhtar,  
Advocates for L & B/LAC GNCTD.  
Mr. S.R. Sharma, Advocate for DDA.

+ **W.P.(C) 11828/2015 & CM APPL. 31415/2015**

LALIT KUMAR GROVER & ANR ..... Petitioners  
Through: Mr. Sanjay Vashishtha, Advocate  
with Mr. Anand Kumar Dubey,  
Advocates.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Sanjay Kumar Pathak with Mrs. K.K. Kiran Pathak, Mr. Sunil Kumar Jha and Mr.M.S. Akhtar, Advocates for L&B/LAC/GNCTD.

+ **W.P.(C) 11832/2015 & CM APPL. 31421/2015**

M/S A & B FASHIONS PVT LTD

..... Petitioner

Through: Mr. Sanjay Vashistha, Advocate with Mr. Anand Kumar Dubey, Advocates.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Sanjay Kumar Pathak with Mrs. K.K. Kiran Pathak, Mr. Sunil Kumar Jha and Mr. M.S. Akhtar, Advocates for L&B/LAC/GNCTD.  
Mr. Nikhil Goel with Mr. Gurpreet Hora, Advocates for Respondent/DDA.

+ **W.P.(C) 147/2016**

BIMLA SODHI

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS

..... Respondents

Through: Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC.

Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.

+ **W.P.(C) 148/2016 & CM APPL. 673/2016**

SUNIL KUMAR SINGHAL ..... Petitioner  
Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS ..... Respondents  
Through: Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.

+ **W.P.(C) 149/2016**

DALVINDER SINGH SODHI ..... Petitioner  
Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS ..... Respondents  
Through: Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms.

Komal Sarout, Advocates for DDA.  
+ **W.P.(C) 310/2016 & CM APPL. 1268/2016**  
GULAM NABI MIR ..... Petitioner  
Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS ..... Respondents  
Through: Mr. Yeeshu Jain, Advocate with Ms.  
Jyoti Tyagi, Advocate for L&B/LAC.  
Mr. Dhanesh Relan, Standing  
Counsel with Mr. Rajeev Jha and Ms.  
Komal Sarout, Advocates for DDA.

+ **W.P.(C) 667/2016**  
JASRAAJ SINGH ..... Petitioner  
Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
AND ORS .... Respondents  
Through: Mr. Siddharth Panda, Advocate for  
LAC/L&B.  
Mr. Arun Birbal, Advocate with Mr.  
Sanjay Singh, Advocates for DDA

+ **W.P.(C) 1471/2016**  
DR. MEHMODA AHMED ..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS ..... Respondents

Through: Mr. Sanjay Kumar Pathak with Mrs. K.K. Kiran Pathak, Mr. Sunil Kumar Jha and Mr. M.S. Akhtar, Advocates for L&B/LAC/GNCTD.

Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Mr. Dhanesh Relan, Standing Counsel with Mr. Rajeev Jha and Ms. Komal Sarout, Advocates for DDA.

+ **W.P.(C) 1644/2016 & CM APPL. 7081/2016**

DALBIR SINGH ..... Petitioner

Through: Mr. N.S. Dalal & Ms. T. Banerjee, Advocates.

versus

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

Through: Mr. Yeeshu Jain, Advocate with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Ms. Aastha Jain, Advocate for DDA.

+ **W.P.(C) 7189/2017 & CM APPL. 29806/2017**

SHRI K. SRINIVASAN ..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar,

Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

Through: Mr. Rajneesh Sharma & Mr. B. Mahapatra, Advocates for LAC/L&B.  
Mr. Pawan Mathur, Standing Counsel, DDA.

+ **W.P.(C) 7236/2017 & CM APPL. 29990/2017**

NARESH KUMAR

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate with Mr. Vinay Kumar Shailendra, Ms. Worthing Kasar, Mr. Alok Pandey and Ms. Raunika Johar, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

Through: Mr. B. Mahapatra, Advocate for LAC/L&B.  
Ms. Shobhana Takiar, Advocate with Ms. Shivani Jain, Advocate for DDA.

+ **W.P.(C) 8282/2015**

BHARAT SINGH

..... Petitioner

Through: Mr. Padam Singh Sehrawat & Mr. Jogender Kumar, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi, Advocates for LAC/L&B.  
Mr. Arjun Pant, Advocate for DDA.

+

**W.P.(C) 10149/2015**

DHARAM PAL

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

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

+

**W.P.(C) 10187/2015**

NAVIN JAIN

..... Petitioner

Through: Ms. Deepika V. Marwaha, Advocate  
with Mr. Vinay Kumar Shailendra,  
Ms. Worthing Kasar, Mr. Alok  
Pandey and Ms. Raunika Johar,  
Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI &  
ORS

..... Respondents

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

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**W.P.(C) 11811/2015**

CHAMAN LAL ARORA ..... Petitioner  
Through: Mr. Sanjay Vashishtha and Mr.  
Anand Kumar Dubey, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS ..... Respondents  
Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,  
Advocates for LAC/L&B.  
Mr. Dhanesh Relan, Standing  
Counsel DDA with Mr. Rajeev Jha  
and Ms. Komal Sorout, Advocates.

+ **W.P.(C) 11813/2015**

MALVIKA MOHATTA ..... Petitioner  
Through: Mr. Sanjay Vashishtha and Mr.  
Anand Kumar Dubey, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS ..... Respondents  
Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,  
Advocates for LAC/L&B.  
Mr. Nikhil Goel and Mr. Gurpreet  
Hora, Advocates for DDA.

+ **W.P.(C) 11826/2015**

MEENAKSHI MANCHANDA ..... Petitioner  
Through: Mr. Sanjay Vashishtha and Mr.  
Anand Kumar Dubey, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS ..... Respondents  
Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,  
Advocates for LAC/L&B.  
Mr. Dhanesh Relan, Standing  
Counsel DDA with Mr. Rajeev Jha



and Ms. Komal Sorout, Advocates.

+

**W.P.(C) 11831/2015**

RAJNI MOHATTA

..... Petitioner

Through: Mr. Sanjay Vashishtha and Mr.  
Anand Kumar Dubey, Advocates.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Mrs.  
K.K.Kiran Pathak, Mr. Sunil Kumar  
Jha and Mr. M. S. Akhtar, Advocates  
for LAC/L&B.

+

**W.P.(C) 11833/2015**

ANURADHA SABOO

..... Petitioner

Through: Mr. Sanjay Vashishtha and Mr.  
Anand Kumar Dubey, Advocates.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,  
Advocates for LAC/L&B.  
Mr. Dhanesh Relan, Standing  
Counsel DDA with Mr. Rajeev Jha  
and Ms. Komal Sorout, Advocates.

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**W.P.(C) 11863/2015**

LAKHOTIA NURSERY TRUST

..... Petitioner

Through: Mr. Sanjay Vashishtha and Mr.  
Anand Kumar Dubey, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,  
Advocates for LAC/L&B.  
Ms. Shobhana Takiar and Ms. Shivani  
Jain, Advocates for DDA.

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**W.P.(C) 2596/2016**

SHRI DHARAMPAL THROUGH: HIS GPA SMT. ANJALI  
GOPALAN

..... Petitioner

Through: Mr. Akshit Gadhok, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Mrs.  
K.K.Kiran Pathak, Mr. Sunil Kumar  
Jha and Mr. M. S. Akhtar, Advocates  
for LAC/L&B.

Mr. Karan Sharma & Mr. Mohit  
Siwach, Advocates for R-3.

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**W.P.(C) 7503/2017**

SUNANDA SWARUP

..... Petitioner

Through: Mr. Y. K. Kapur & Mr. Bhushan  
Kapur, Advocates.

versus

GOVT. OF NCT OF DELHI

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Mrs.  
K.K.Kiran Pathak, Mr. Sunil Kumar  
Jha and Mr. M. S. Akhtar, Advocates  
for LAC/L&B.

**CORAM:**

**JUSTICE S. MURALIDHAR**

**JUSTICE SANJEEV NARULA**

## **J U D G M E N T**

### **Dr. S. Muralidhar, J.:**

1. All these petitions arise from a similar set of facts and raise identical questions of law. They are accordingly being disposed of by this common judgment.

2. The lead case is W.P.(C) No.1974 of 2015 by Mrs. Shivi Talwar. The averments in the said petition are therefore discussed hereafter in some detail.

### ***Relevant facts***

3.1 The facts preceding the filing of the lead petition are as follows:

3.2 On 18<sup>th</sup> March, 1993 an area comprising of 1983 hectare of land in village Malikpur Kohi @ Rangpuri was notified under Section 12 of the Delhi Development Act declaring the area as Development Area 176. On 1<sup>st</sup> June 1995 three notifications were issued under Section 4 read with Section 17(1) of the Land Acquisition Act, 1894 (LAA) for acquisition of different parcels of land in village Malikpur Kohi @ Rangpuri as under:

(i) Notification No.F.9(12)/95-L&B/LA/8431 for acquisition of land measuring 75 Bighas and 5 Biswa for the public purpose viz., construction of staff quarter for Government of National Capital Territory of Delhi (GNCTD);

ii) Notification No.F.9(12)/95-L&B/LA/8388 for acquisition of land

measuring 306 Bighas and 2 Biswa for the public purpose viz., construction of staff quarter for GNCTD.

(iii) Notification No.F.9(12)/95-L&B/LA/8474 for acquisition of land measuring 3284 Bighas for the public purpose viz., namely development of Vasant Kunj Phase-IV under the planned development of Delhi.

3.3 On 16<sup>th</sup> November 1995, Notification No.F.9/12/95/L&B/LA/8433 under Section 17 (1) of the LAA was issued. A declaration under Sections 6 and 7 of the LAA was issued directing the Collector to take orders before acquisition of the land measuring 75 Bighas 5 Biswa. On 17<sup>th</sup> November 1995, a Corrigendum pertaining to Khasra No.1497 and 1498 (9 bighas 12 biswa) of village Malikpur Kohi @ Rangpuri changing the purpose of acquisition from development of Vasant Kunj Phase-IV to staff quarter for GNCTD was issued.

3.4 On 17<sup>th</sup> November, 1995 Notification No.F.9/12/95/L&B/LA/8655 under Sections 6 and 7 of the LAA was issued directing the Land Acquisition Collector (LAC) to proceed for acquisition of the land measuring 9 Bigha 12 Biswa comprised in Khasra No.1497 and 1498.

3.5 On the same day, another Notification No.F.9/12/95/L&B/LA/8659 under Section 9 of the LAA was issued directing the LAC to take possession of the land measuring 9 Bigha 12 Biswa which was subject matter of Notification No.F.9/12/95/L&B/LA/8474 dated 1<sup>st</sup> June 1995.

3.6 On 16/17<sup>th</sup> November, 1995, a Notification bearing No.F.9/12/95/L&B/LA/8438 under Sections 6 and 7 of the LAA was issued directing the LAC to proceed for acquisition of the land measuring 306 Bigha 2 Biswa.

3.7 On 1<sup>st</sup> December, 1995 a Corrigendum Notification No.F.9/12/95/L&B/LA/9541 was issued declaring that Section 17(1) of the LAA will not be applied on the land notified under Notification No.F.9/12/95/L&B/LA/8474 dated 1<sup>st</sup> June, 1995 except on Khasra No. 1497 and 1498.

3.8 W.P. (C) No.4789 of 1995 titled ***Vasant Kunj Enclave Housing Welfare Society v. Union of India*** was filed in this Court challenging two of the notifications dated 1<sup>st</sup> June, 1995 wherein Section 17 (1) of the LAA had been invoked. The third notification of 1<sup>st</sup> June 1995 was not challenged since Section 17 (1) and 17 (4) of the LAA, though earlier invoked, was revoked on 1<sup>st</sup> December, 1995 except on Khasra Nos.1497 and 1498.

3.9 By an order dated 18<sup>th</sup> January, 1996 in W.P. (C) No. 4789 of 1995, this Court directed *status quo* to be maintained in respect of the abovementioned Notifications which were issued under Sections 4 and 17 of the LAA.

3.10 According to the Petitioners, on 30<sup>th</sup> May 1996 the earlier notification No. F.9 (12)/95-L&B/LA/8474 dated 1<sup>st</sup> June 1995 under Section 4 read with Section 17(1) of the LAA for acquisition of land measuring 3284 Bighas for the public purpose viz., development of Vasant Kunj Phase-IV

under the planned development of Delhi was allowed to lapse in view of the clause (ii) of the first proviso to Section 6 (1) of the LAA as no declaration under Section 6 of the LAA was issued within the stipulated period of one year from the date of preliminary notification issued under Section 4 of the LAA.

3.11 Two other writ petitions challenging the notifications dated 1<sup>st</sup> June 1995 under Section 4 read with 17 (1) and 17 (4) of the LAA and 16<sup>th</sup> November 1995 under Section 6 of the LAA were W.P. (C) No. 2345 of 1996 (*Geeta Batra v. GNCTD*) and W.P. (C) No. 2328 of 1996 (*GNCTD v. Luthra & Co.*).

#### ***Facts in lead petition***

4.1 Now to turn to the averments in the lead petition i.e. W.P. (C) No. 1974 of 2015 by Mrs. Shivi Talwar, on 27<sup>th</sup> June 1996 three notifications were issued under Section 4 of the LAA read with Sections 17 (1) and 17 (4) thereof dispensing with the hearing under Section 5A of the LAA, for acquisition of various parcels of land in village Malikpur Kohi @ Rangpuri, as under:

(i) Notification F.9 (12)/95/L&B/LA/9739 with respect to 130 bighas and 15 biswas for the public purpose of construction of staff quarters for the Government of NCT of Delhi in connection with the planned development of Delhi. The Petitioners point out that this was earlier a part of Notification No. F.9(12)/95-L&B/LA/8474 dated 1<sup>st</sup> June 1995 which was allowed to lapse on 30<sup>th</sup> May, 1996.

(ii) No. F.9(12)/95-L&B/LA/9741 for acquisition of land measuring 369 Bighas 1 Biswa for the public purpose viz., development of Vasant Kunj Phase IV under the planned development of Delhi. This was earlier a part of the Notification No. F.9(12)/95-L&B/LA/8474 dated 1<sup>st</sup> June 1995 which was allowed to lapse on 30<sup>th</sup> May, 1996.

(iii) Notification No. F.9 (12)/95-L&B/LA/9743 for acquisition of the land measuring 1337 bighas and 4 biswas for development of the Vasant Kunj, Phase IV under the planned development of Delhi. This too was earlier a part of the Notification No. F.9(12)/95-L&B/LA/8474 dated 1<sup>st</sup> June 1995 which was allowed to lapse on 30<sup>th</sup> May, 1996.

4.2 This was followed by a declaration dated 10<sup>th</sup> January, 1997 under Section 6 of the LAA pertaining to the above notification regarding acquisition of the land measuring 1337 bighas and 4 biswas. Another declaration was issued on 3<sup>rd</sup> March 1997 under Section 6 of the LAA in respect of the acquisition of land measuring 180 bighas and 15 biswas for construction of staff quarters for the GNCTD.

4.3 Admittedly, in both notifications, the land being claimed by the Petitioner Mrs. Shivi Talwar i.e. in Khasra Nos. Nos. 1082(4-16), 1085 (4-16), 1086 (4-16), 1087 (4-16), 1088/2 (4-7), 1092/1(4-9), 1092/2(0-7), 1434/1(4-5), 1450(5-13), 1451(7-9), 1452(4-16), 1808(5-19), 1809(4-7), situated in Village Malikpur Kohi @ Rangpuri, Tehsil Mehrauli, New Delhi was included in the notification at para 4.1 (iii) above and the corresponding Section 6 declaration dated 10<sup>th</sup> January 1997. According to Mrs. Talwar,

she became owner of the said land by virtue of a registered sale deed dated 19<sup>th</sup> February, 1990 executed by Mr. Vinay Kumar Mehrotra. According to Mrs Talwar, the land was duly demarcated and physical possession thereof was handed over to her by Mr. Mehrotra. She further states that the land was also mutated in the revenue record of Tehsil, Mehrauli in her name on 5<sup>th</sup> September, 1990.

### ***The petitions in this Court***

5. 25 writ petitions were filed in this Court challenging the notifications at para 4.1 (iii) and the corresponding Section 6 declaration dated 10<sup>th</sup> January 1997. The lead petition was W.P. (C) No.1953/1997 (***Vasant Kunj Enclave Housing Welfare Society v. Union of India***). In this petition an interim order was passed by this Court on 11<sup>th</sup> June, 1997 restraining the Respondents from demolishing the existing structures on the land in question. The other petition in this batch CWP No.1288/1997 was filed by Ms. Sunita Kaul in which on 25<sup>th</sup> March, 1997, a learned Single Judge of this Court directed *status quo* to be maintained. The Court recorded the undertaking of the said Petitioner that no construction would be raised or third party interest created in the property in question till the next date of hearing.

6. Apart from the above, W.P.(C) No.3518/1996 was filed by one Shri Ram Sarup (***Ram Sarup v. Union of India***) and certain others in which an order was passed on 16<sup>th</sup> December, 1996 to the effect that the Petitioners would not be dispossessed. W.P. (C) No.161/1999 (***Satish Kumar Garg v. Union of India***) was filed challenging the invocation of Section 17 (4) of the LAA



and dispensing with Section 5A of the LAA. In this writ petition, that is W.P. (C) No.161/1999, Mrs Talwar was the co-Petitioner. In the said petition by an order dated 14<sup>th</sup> January 1999, the learned Single Judge directed that the *status quo* with regard to possession would continue. A similar order was passed on 28<sup>th</sup> January, 1999 in W.P.(C) No.1953/1997.

7. In another batch of writ petitions, the Notification F.9 (12)/95/L&B/LA/9739 dated 27<sup>th</sup> June 1996 under Section 4 of the LAA followed by the declaration dated 3<sup>rd</sup> March 1997 under Section 6 of the LAA were challenged. The lead petition was W.P. (C) No.2605/1997 (***Gig Raj Patodia v. Union of India***).

8. Notification No. F.9(12)/95-L&B/LA/9741 dated 27<sup>th</sup> June, 1996 was challenged in a batch of 14 cases of which the lead one was W.P. (C) No.3762/1999 (***Radiance Fincap Pvt. Ltd. v. Union of India***).

9. Pursuant to the above notifications under Sections 4 and 6 of the LAA, on 6<sup>th</sup> January 1999 an Award No.2/1998-99 was passed by the Land Acquisition Collector ('LAC')/ADM, New Delhi (Respondent No.2) in village Malikpur Kohi @ Rangpuri, including the lands claimed by Mrs. Talwar.

### ***Orders of this Court and the Supreme Court***

10. In the earliest writ petitions viz., W.P. (C) Nos. 4789/1995, 2345/1996 and 2328/1996, a split verdict was rendered on 3<sup>rd</sup> March 2005 by the two learned Judges, comprising the Division Bench (DB). While Swatanter Kumar, J. (as he then was) dismissed the writ petitions, Madan B. Lokur, J.

(as he then was) partly struck down the notifications dated 1<sup>st</sup> June, 1995 under Section 4 of the LAA to the extent that it sought to invoke Section 17 (4) and denied the right to file objections under Section 5-A of the LAA. Lokur, J. opined that it was left to the Respondents to decide whether they would like to invite fresh objections under Section 5-A of the LAA or reconsider the objections already received. The relevant portion of the judgment reads as under:

"Accordingly, I would allow this writ petition and quash the Notification dated 17<sup>th</sup> November, 1995 issued under Section 6 of the Act, leaving it open to the Respondents to take such appropriate actions as may be permissible in law, proceeding on the basis that no decision was taken by the appropriate Government under Section 17 (4) of the Act in respect of the land sought to be acquired by the notification dated 1<sup>st</sup> June, 1995 issued under Section 4 thereof."

11. On the same day again by a separate judgment the two learned judges decided the batch of 25 petitions of which the lead petition was W.P.(C) No.1953/1997 (*Vasant Kunj Enclave Housing Welfare Society and others v. Union of India*). Again they delivered split verdicts. The dissenting opinions were the same as they were in W.P.(C) No. 4789/1995 where Lokur, J. was of the view that the competent authority had not applied its mind.

12. W.P.(C) No. 4789/1995 was placed before the third learned Judge, T.S. Thakur, J. (as he then was), who by judgment dated 28<sup>th</sup> April, 2006 concurred with the view expressed by Madan Lokur, J. which is reproduced hereinabove. Thereafter on 5<sup>th</sup> May, 2006, the matter was placed again

before the DB. The operative order of the DB in W.P.(C) No. 4789/1995 quashed the notification dated 10<sup>th</sup> January 1997 under Section 6 of the LAA, leaving it open to the Respondents to take such appropriate action, as may be permissible in law proceeding on the basis that no decision was taken by the appropriate Government under Section 17(4) of the Act in respect of the land sought to be acquired by the notification dated 1<sup>st</sup> June, 1995 issued under Section 4 thereof.

13. Similarly, in view of the difference of opinion in W.P. (C) No. 1953/1997 and others, the matter was placed before T.S. Thakur, J. Again, by an order dated 28<sup>th</sup> April, 2006, Thakur, J. concurred with the view expressed by Lokur, J. The petition was asked to be placed before the same DB for further orders.

14. Subsequently, on 5<sup>th</sup> May 2006, the operative order was passed by the DB in W.P.(C) Nos. 4789/1995, 2345/1996 and 2328/1996, whereby the Notification dated 17<sup>th</sup> November, 1995 issued under Section 6 and 17 (4) of the LAA was quashed. By order dated 20<sup>th</sup> November, 2006 in SLP (C) No. 19473 of 2006, the Supreme Court stayed the judgment dated 5<sup>th</sup> May, 2006 of the DB of this Court. Meanwhile, W.P.(C) No.161/1999 also came to be adjourned *sine die* in view of the pendency of the SLP in the Supreme Court.

15. On 21<sup>st</sup> March, 2012, the Supreme Court dismissed Civil Appeal No.2997/2012 arising from SLP (Civil) No.18514/2006 (**GNCTD v. Geeta Batra**) and Civil Appeal No.3001 of 2012 (**GNCTD v. Luthra & Co.**). Ultimately on 27<sup>th</sup> April, 2012, the Supreme Court dismissed Civil Appeal No.4062/2012 (**GNCTD v. Vasant Kunj Enclave Welfare Housing Society**)

on the same grounds as ***GNCTD v. Luthra & Co.*** (*supra*). The Petitioners contend that the Supreme Court neither granted any extension of time granted to the government of NCT of Delhi for inviting objection under Section 5-A of the LAA nor condoned any delay in issuance of declaration under Section 6 of the LAA.

16. By order dated 4<sup>th</sup> May 2012, the DB of this Court disposed of W.P.(C) No.3518/1996 (***Ram Sarup v. Union of India***) and 27 other connected cases in terms of the orders already passed on 28<sup>th</sup> April 2006 and 23<sup>rd</sup> March 2007 in view of the SLP having been dismissed by the Supreme Court except to the extent that the land already utilized for construction of flyover and slip-road would be excluded from the result of quashing the notifications.

### ***Second round of litigation***

17. Subsequently, two fresh writ petitions were filed i.e. W.P.(C) No.7795/2012 (***Vasant Kunj Enclave Housing Welfare Society v. GNCTD***) and CWP No.7802/2012 (***Ruchi Vihar Housing Welfare Society v. GNCTD***). The Petitioner Ms Shivi Talwar was a member of the Ruchi Vihar Society.

18. On 18<sup>th</sup> April, 2013, this Court disposed of W.P.(C) No.161/1999 (***Satish Garg v. Union of India***) in terms of the order dated 4<sup>th</sup> May, 2012 passed in CWP No.3518/1996 (***Ram Sarup v. Union of India***). The order reads thus:

“It is agreed that these writ petitions be disposed of in terms of the majority view of the orders already passed on 28.04.2006

and 23.03.2007 in view of the SLP having been dismissed by the Supreme Court except to the extent that the land already utilized for construction of flyover and slip-road would be excluded from the result of quashing of the notifications. The writ petition, accordingly, stand disposed of”

***Corrigendum dated 8<sup>th</sup> July 2013***

19. At this juncture on 8<sup>th</sup> July, 2013, the Government of the NCT of Delhi issued a corrigendum relatable to the public notice dated 21<sup>st</sup> November 2012 to the earlier Section 4 of the LAA notification and Section 6 of the LAA declaration to confine it to the khasra numbers for which notification/ declaration had been quashed. The operative portion of the corrigendum reads thus:

“Now, it is clarified, that the public notice issued dated 21.11.2012 will be applicable to only those persons/ petitioners, who are the parties in the petitions (S.L.P. No. 18514/2006 & 18617/2008 titled as *GNCT of Delhi v. Geeta Batra and Govt of NCT of Delhi v Luthra & Company*) and the all other concerned Writ Petitions disposed off by the Hon’ble High Court of Delhi where the notifications have been quashed. It is also added that the stay granted by the Hon’ble High Court in CWP No. 7795/2012 & 7802/2012 is stayed qua the petitioner. Therefore, hearing U/s 5A of the Land Acquisition Act, 1894 will be granted to only those persons who are covered by the above said cases and not to all persons affected by these notifications.”

20. An application was filed in W.P.(C) No.7802/2012 seeking stay of the operation of the corrigendum dated 8<sup>th</sup> July, 2013 as being arbitrary, discriminatory and illegal. On 11<sup>th</sup> October, 2013, this Court directed the parties to maintain *status quo*.

21. According to the Petitioner Mrs. Talwar, on 31<sup>st</sup> December, 2013, the

period was coming to an end, Respondent Nos. 1 and 2 arbitrarily tried to take paper possession of some of the lands falling in the abovementioned Section 4 notification dated 27<sup>th</sup> June 1996. It is however urged that physical possession of these lands was not taken on 31<sup>st</sup> December 2013.

22. On 5<sup>th</sup> November, 2014, the Vasant Kunj Enclave Housing Welfare Society withdrew the said petition before this Court and the said petition accordingly was dismissed as withdrawn with liberty to seek benefit of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (2013 Act). Soon thereafter, a third round of petitions came to be filed. The present petition by Mrs. Shivi Talwar was heard on 2<sup>nd</sup> March, 2015, when the interim order was passed to maintain status quo. In other words, the stay order continued in one form or the other through various Petitioners.

***A fresh Section 6 notification***

23. On 4<sup>th</sup> July, 2017, a notification was issued by the GNCTD under Section 6 of the LAA qua land measuring 616 bighas and 16 biswas. The corrigendum dated 8<sup>th</sup> July, 2013 acknowledged that there were two classes of persons – one which had come to the Court challenging the land acquisition proceedings and the others who did not challenge them at all. For those who challenged the land acquisition proceedings successfully with the Supreme Court affirming the view of the High Court that there was no justification in invoking Section 17 (1) of the LAA, the notices under Section 5-A of the LAA were issued. Those who did not earlier challenge the land acquisition proceedings, would not be covered by the corrigendum.

24. Those who had not earlier approached this Court, filed writ petitions in which orders were passed declaring the deemed lapsing of the land acquisition proceedings under Section 24 (2) of the 2013 Act. Learned counsel for the Petitioners have produced before the Court the entire bunch of orders granting such relief. It is in the above context that on 23<sup>rd</sup> February, 2015, the W.P.(C) No.1974/2015 was filed by Mrs Shivi Talwar seeking a similar declaration. As already noticed, when the petition was first heard on 2<sup>nd</sup> March, 2015, a *status quo* order was passed.

### ***Case of the Respondents***

25. Pursuant to the notices issued in the present petition, the LAC has filed a counter affidavit, *inter alia*, stating that the possession of the land in question could not be taken although it had been taken of the majority of the awarded land and payment of compensation to the majority of land owners were also being made.

26. A separate affidavit has been filed by the DDA confirming that physical possession was not handed over to the DDA by the LAC. However, details of the compensation amount deposited by the DDA with the L&B Department have been indicated.

27. An additional affidavit was filed on behalf of the LAC on 30<sup>th</sup> January, 2016. It sought to deal with the grounds urged by the Petitioner that despite the public notice dated 21<sup>st</sup> November, 2012 under Section 5-A of the LAA, no consequent notification under Section 6 of the LAA had been issued within a year thereafter. It is pointed out in the additional affidavit that the Petitioner had not come to the Court with clean hands. She had filed the

petition through her constituted attorney Shri Kapil Aggarwal son of Shri R.K. Aggarwal who is a resident of Civil Lines, Delhi. As per the Special Power Attorney ("SPA") dated 29<sup>th</sup> January, 2015 (Annexure P-1), the Petitioner Mrs. Talwar is shown to be a resident of Poorvi Marg, Vasant Vihar, New Delhi. It is pointed out that the reasons given by Mrs. Talwar that due to business exigencies and personal difficulties she is not able to file the petition herself or cannot attend the Court hearing can "hardly be a ground for the Petitioner not filing the present writ petition personally". It is also pointed out that the said SPA is not a registered document.

28. It is next pointed out by the LAC that Mrs. Talwar did not respond to the notice under Section 5-A of the LAA and, therefore, the land acquisition proceedings cannot be challenged by her. It is contended that the same land which is the subject matter of the present petition also formed the subject matter of W.P.(C) No.161/1999 (*Sanjay Kumar Garg v. Union of India*) and W.P.(C) No.7802/2012 (*Ruchi Vihar Housing Welfare Society v. GNCTD*). Mrs. Talwar had not adverted to the status of the W.P. (C) No.7802/2012 or to the interim orders passed therein. As regards the sale deed produced by Mrs. Talwar, it is pointed out that the boundary for the land purchased was not specified. Even the site plan was not attached to the sale deed. Without prejudice to the submission that the period of one year for issuing a fresh declaration under Section 6 of the LAA had not yet lapsed, it is submitted by the LAC that in the absence of clear identity of land in question, the declaration sought by Mrs. Talwar cannot be granted.

29. The LAC pointed out that on account of various petitions and the stay



orders passed therein, the acquisition proceedings remained stayed from 16<sup>th</sup> December, 1996 to 4<sup>th</sup> May, 2012 when W.P. (C) No.1953/1997 (*Vasant Kunj Enclave Housing Welfare Society v. Union of India*) was finally disposed of. It is stated that the land forming part of the public notice dated 21<sup>st</sup> November, 2012, inviting objections under Section 5-A of the LAA, included the land claimed by Mrs. Talwar. It is further pointed out that in the *Ruchi Vihar* case, an amendment application was moved giving the full particulars of the lands of the Petitioners. The interim order in W.P.(C) No.161/1999 was vacated on 18<sup>th</sup> April, 2013, excluding the period of stay except 171 days that lapsed on 27<sup>th</sup> June, 1996 till 16<sup>th</sup> December, 1996. There was no further lapse of time for the purposes of issuing a declaration under Section 6 of the LAA. Referring to Explanation-I to the Proviso to Section 6 (1) of the LAA, it is submitted by the LAC that the stay of the notification could be either partial or total. Reference is made to the decision of the Supreme Court in *Abhey Ram v. Union of India* (1997) 5 SCC 421 which was followed in *Om Prakash v. Union of India* (2010) 4 SCC 17.

30. The LAC submits that the Petitioner is claiming 1 bigha out of 60 bighas and 16 biswas in the above khasra numbers “without filing any site plan or without identifying pieces/parcels of land totalling measuring 1 bighas out of the aforesaid khasra numbers.” It is pointed out that “all these khasra number even otherwise are not adjacent/continuous”. It is, therefore, averred that the Petitioner “apparently had purchased undivided land measuring 1 bigha out of the aforesaid khasra numbers which have been notified for acquisition”.

***Averments in the Ruchi Vihar case***

31. Respondents 1 and 2 have with their additional affidavit enclosed a copy of an additional affidavit dated 19<sup>th</sup> September, 2014 filed by the Petitioners in the ***Ruchi Vihar case*** where it was stated that it was being filed on behalf of the members of the said society who are original owners of the land in the khasra numbers which included those referred to by the present Petitioner. The name of the Petitioner Mrs. Shivi Talwar figures at S. No. 49. It is pointed out that during the pendency in ***Ruchi Vihar case***, the said writ petition was sought to be amended by filing CM No.18075/2014 proposing various amendments. It was stated that the reliefs were being sought on behalf of the members who are original owners and who had not earlier impugned the notifications under Section 4 or 6 of the LAA of the award no.2/98-99. The amended paragraph 2 in the ***Ruchi Vihar case*** showed the name of the Petitioner at S. No. 45. It was pointed out that the Petitioner had deliberately concealed from the Court the fact of filing of the ***Ruchi Vihar case*** and the interim orders dated 19<sup>th</sup> December, 2012 and 11<sup>th</sup> October, 2013 passed therein. After the W.P.(C) No.161/1999 was disposed of on 18<sup>th</sup> April, 2011, the Petitioner participated in the ***Ruchi Vihar case*** where interim orders were passed even on 11<sup>th</sup> October, 2013 and during the pendency of the ***Ruchi Vihar case***, the present case was filed on 23<sup>rd</sup> February, 2015, in which interim orders were passed even on 2<sup>nd</sup> March, 2015. On 12<sup>th</sup> October, 2015, the ***Ruchi Vihar case*** (W.P.(C) No.7802/2012) was permitted to be withdrawn, reserving the rights of the individual members to seek remedies. Therefore, the stay order in ***Ruchi Vihar case*** continued till 12<sup>th</sup> October, 2015.

32. From the averments in the amended petition filed in the ***Ruchi Vihar case***, it is evident that the land in question to which Mrs. Talwar and the other Petitioners in this batch lay claim to forms part of an unauthorised colony. The relevant portion of the petition is reproduced below:

“L. That on 11.09.2007 the Government of NCT of Delhi through its Land and Building Department issued a circular after the decision of the Competent Authority that in view of the policy decision to regularise certain unauthorised colonies, any land falling within the boundaries of such colonies as per the survey which has been carried out by the Divisional Commissioner, whether built up or not, will not be taken over by the Government.

M. That presently three unauthorized colonies namely Vasant Kunj Enclave Housing Welfare Society, Ruchi Vihar Housing Welfare Society and Rangpuri Extension are situated on the land covered under the notification and they are under the list of unauthorized colonies numbering 1639 and the Government of NCT of Delhi has taken a policy decision not to acquire any land coming under the unauthorized colonies.

N. That there is a policy decision not to demolish any physical structure on the land coming under the unauthorized colonies.

O. That the Delhi Development Authority also decided on 12.10.2009 that it will be worthwhile that DDA should concentrate on, protection of its own land and on planned development of that rather than controlling the building activities in the areas where it appears to be little or no potential for large scale acquisition and planned development at the time of denotifying the Development Area 176 including the land in question.

P. That the Government of NCT of Delhi and DDA are allowing their lands to be used for mushrooming of unauthorized colonies and on the other hand are acquiring the

private land for the same public purposes for which these lands were supposed to be used i.e. planned development of Delhi.

Q. That the Government of NCT of Delhi instead of evicting unauthorized people on the acquired land of 13 villages including Chhatarpur, Satbari, Maidan Garhi, Shayoorpur, Rajpur Khurd, Neb Sarai, Khirkee, Devli, Khanpur, Tughlakabad and Tigri constituting 50,000 Bighas after winning the case from Hon'ble Supreme Court are trying to acquire the private land from the members of the Petitioner for the same very purpose.

.....

T. That the land is being requisitioned for development of Vasant Kunj Phase-IV under the planned development of Delhi, though the Petitioner and other two colonies namely Vasant Kunj Enclave and Rangpuri Extension themselves have prepared the layout plan of their colonies in accordance with the planned Development of Delhi and have submitted to the Government of NCT of Delhi for approval and they are ready to bear the cost of development activities to be carried out in their colonies by the Government of NCT of Delhi and Municipal Corporation of Delhi.

U. That the proposed acquisition will cause untold misery, unimaginable hardship, mental torture and agony to all the members of the Petitioner's society who mostly belong to salary class and have invested the savings of their whole life in purchasing/acquiring these small pieces of land for construction of their houses. It is obvious that these people will never be able to acquire any other piece of land to fulfill their lifelong dream.”

### ***Rejoinder of the Petitioner***

33. In a reply filed to the additional affidavit on behalf of the LAC, the Petitioner Mrs. Talwar has contended as under:

- (i) The Petitioner bonafide chose to file an independent writ petition seeking the same relief, as earlier sought by the ***Ruchi Vihar Society*** “but by inadvertence, the Petitioner being part of ***Ruchi Vihar Society***’s writ petition was not averred.”
- (ii) Even otherwise, the period of one year has already expired even if the interim period, as mentioned by the Respondents in their additional affidavit are excluded.
- (iii) In response to the Respondents’ pointing out that there is no site plan attached with the sale deed, it is averred that “the said land was duly demarcated and was handed over to the Petitioner pursuant to the sale deed by Mr Vinay Kumar Mehrotra”. The Petitioner still do not indicate the exact location of the land in question. It is stated that the name of the Petitioner was mutated in the revenue records of Tehsil Mehrauli and the name is reflected in the *Khatoni*.
- (iv) Reliance is placed on the decision in ***Sunil Goel v. State 211 (2014) DLT 382 (DB)*** where in similar circumstances, the declaration under Section 24 (2) of the 2013 Act was granted by this Court.
- (v) It is contended that there was a stay of land acquisition proceedings from 16.12.1996 to 04.05.2012 and therefore admittedly period of 171 days has elapsed till 16.12.1996 from the date of notification dated 27.06.1996 issued under Section 4 of the Land Acquisition Act, 1894. There is no stay between 04.05.2012 to 19.12.2012 and therefore the period of 228 days has elapsed between 04.05.2012 to 19.12.2012 and therefore cumulatively a period of 371 days had expired till 21.12.2012 and period of 398 days had expired till 19.12.2012 in terms of judgment of this Hon'ble Court in ***Sunil Goel v. State***

(*supra*). Accordingly, land acquisition proceedings qua the land of the Petitioner has lapsed in terms of the Clause (ii) of first proviso to Section 6(1) of the Land Acquisition Act.

- (vi) As regards the SPA, it is stated that it did not give any power of attorney to sell, alienate or create third party interest in the land and merely gives power to represent the Petitioner. It is stated that the SPA has been duly executed in accordance with the CPC and the Power of Attorney Act, 1882. The Petitioner states that she is ready and willing to appear in person as and when required by the High Court.

34. This Court has heard the submissions of Ms. Deepika V. Marwaha, Mr B.S. Maan, Ms Smita Maan, Mr Vishal Maan, Mr Jaswant Rai Aggarwal, Mr Rajesh Gupta, Mr Sanjay Vasistha, Mr M.A. Khan, and Mr N.S. Dalal, learned counsel appearing for the Petitioners; and learned counsel for various other Petitioners in the other petitions. On behalf of the Respondents, Mr Sanjay Poddar, learned Senior Counsel along with Mr Yeeshu Jain and Ms Jyoti Tyagi, Mr Sidharth Panda, Ms Aastha Tyagi, Mr Sanjay Pathak appeared for the LAC / L&B, Mr Dhanesh Relan, Mr Pawan Mathur, Mr Ajay Verma, Mr Arun Birbal, Ms Mrinalini Sen, Mr S.R. Sharma, Mr Nikhil Goel, Advocates appeared for the DDA.

35. At the outset, it requires to be noticed that in none of the present petitions is the fresh notification dated 8<sup>th</sup> February 2017, under Section 6 of the LAA challenged although it includes the land of some of the Petitioners. The prayer in all these petitions is that no Section 6 notification under the

LAA can be issued as the period of one year after the lifting of the stay orders by the Supreme Court has already come to an end. That is the running theme of the case of the Petitioners.

***The Sunil Goel decision***

36.1 Since the Petitioners have placed heavy reliance on the decision of this Court in ***Sunil Goel***, it is necessary to discuss at this juncture to discuss that case at some length.

36.2 The facts in ***Sunil Goel*** were that a notification was issued on 27<sup>th</sup> October 1999 under Section 4 of the LAA for a public purpose of Rohini Residential Scheme. There again, Section 17(1) read with Section 17 (4) of the LAA was invoked. This is followed by a declaration issued on 3<sup>rd</sup> April 2000 under Section 6 of the LAA. The lands included the lands in Village Shahbad Daulatpur, Pehladpur Bangar and Village Pansali.

36.3 In the lead petition by Sunil Goel being WP(C) No. 1638 of 2000 there was a stay order passed by this Court on 19<sup>th</sup> April 2000 which continued till 9<sup>th</sup> July 2007 when a DB dismissed all the writ petitions. The DB nevertheless granted leave to appeal to the Supreme Court on two questions as under:

“(1) Once Section 17 of the LA Act is invoked, does it have the effect of the suspension of the right to file objections under Section 5A?

(2) Is it essential that separate Orders under Section 17(4) must be passed if it is intended that there should be a suspension of the right to file Objections under Section 5A?”

36.4 Sunil Goel filed Civil Appeal No. 3513 of 2007 in the Supreme Court. Others filed similar appeals. By an order dated 9<sup>th</sup> August 2007, the Supreme Court granted interim stay of the order of the High Court which had dismissed the writ petitions.

36.5 In one of the batch matters before the Supreme Court, it delivered a judgment on 21<sup>st</sup> March 2012 allowing Civil Appeal No. 3813 of 2007 (***Ram Dhari Jindal Memorial Trust v. Union of India***). The Supreme Court held that the invocation of Section 17(1) of the LAA was bad in law and liable to be quashed. Consequently, the declaration dated 3<sup>rd</sup> April, 2000 under Section 6 of the LAA was also quashed. The Supreme Court directed that the competent authority would thereafter invite objections under Section 5-A of the LAA pursuant to the Section 4 of the LAA notification dated 27<sup>th</sup> October, 1999. A similar order was passed on 21<sup>st</sup> March, 2012 in the appeal of Sunil Goel.

36.6 In compliance with the decision in ***Ram Dhari Jindal Memorial Trust v. Union of India*** (*supra*), objections under Section 5-A of the LAA was invited and ultimately on 20<sup>th</sup> March, 2013, a declaration under Section 6 of the LAA was issued. The said declaration was challenged and was considered in a batch of writ petitions of which the lead petition was that of Sunil Goel. The three questions formulated by this Court for consideration were as under:

“1) Whether the notification is a nullity as having been made beyond the time period prescribed by the Land Acquisition Act for issuing a declaration under Section 6 ?

2) Whether the LAC Report indicates sufficient application of



mind to the objections of the petitioner as required by law?

3) Whether the de-notification by the DDA under Section 12 of the Delhi Development Act, in any way, adversely affects the acquisition process in the present case?

36.7 As regards the first question, the DB of this Court concluded, after referring to the decision of the Supreme Court in *Padma Sundara Rao v. State of T.N. (2002) 3 SCC 533* that the notification under Section 6 of the LAA was issued much beyond the period of one year even after excluding the period covered by the stay orders granted by the High Court and the Supreme Court. It was opined that the decisions in *Abhey Ram v. Union of India (supra)* and *Rajinder Kumar Aggarwal v. LG (2010) 116 GRJ 500 (DB)* did not come to the aid of the Respondents. Since question (i) was decided in favour of the Petitioners, the remaining two questions were left open.

37. This Court however finds that the facts in the present case are different and, therefore, the aforementioned decision in *Sunil Goel* would not come to the aid of the Petitioners for several reasons. First, in the present case, there has been an interim order in favour of the Petitioners on a continuous basis. In the beginning, there was an interim order dated 16<sup>th</sup> December, 1996 passed in W.P. (C) No.3518/1996. The said petition was disposed of on 4<sup>th</sup> May, 2012, but during that entire period the stay/status quo orders were passed in various other writ petitions including the stay/status quo order passed on 25<sup>th</sup> March, 1997, 11<sup>th</sup> June, 1997 and 14<sup>th</sup> January, 1999 in W.P.(C) Nos. 1288/1997, 1953/1997 and 161/1999 respectively. Though

W.P.(C) No.1288/1997 and W.P.(C) No.1953/1997 were disposed of on 4<sup>th</sup> May 2012, the interim order passed in W.P.(C) No. 161/1999 was continuing till its disposal on 18<sup>th</sup> April 2013. Even in WP(C) No.7802/2012, on 19<sup>th</sup> December 2012 the operation of impugned public notice dated 21<sup>st</sup> November, 2012 had been stayed which was made absolute on 11<sup>th</sup> February 2013. Further on the same date, parties in the ***Ruchi Vihar case*** (*supra*) were directed to maintain status quo. Thus the public notice dated 21<sup>st</sup> November 2012 and the Corrigendum dated 8<sup>th</sup> July 2013 remained stayed from 19<sup>th</sup> December 2012 till 12<sup>th</sup> October 2015 when aforesaid writ in ***Ruchi Vihar case*** (*supra*) was permitted to be withdrawn with liberty to file a fresh petition, which included the land in question. Secondly, the interim order passed in the present petition on 2<sup>nd</sup> March 2015 has continued till date.

38. The Respondents have correctly depicted the periods of stay in a tabular form as under:

| S.No. | W.P.(C) No. | Cause Title                                                                    | Date of interim order / stay | Date when writ decided/ stay ended |
|-------|-------------|--------------------------------------------------------------------------------|------------------------------|------------------------------------|
| 1.    | 3518/1996   | Ram Sarup & Drs. v Vs. UOI & Ors.                                              | 16.12.1996                   | 04.05.2012                         |
| 2.    | 1288/1997   | Sunita Kaul v UOI & Drs.                                                       | 25.03.1997                   | 04.05.2012                         |
| 3.    | 1953/1997   | Vasant Kunj Enclave Housing Welfare Society and Drs. Vs. Union of India & Drs. | 11.06.1997                   | 04.05.2012                         |
| 4.    | 161/1999    | Satish Kumar Garg & Drs. Vs. UDI & Drs. Petitioner was party.                  | 14.01.1999                   | 18.04.2013                         |
| 5.    | 7802/2012   | Ruchi Vihar Housing Welfare Society &                                          | 19.12.2012 &                 | 12.10.2015                         |

|    |           |                                         |            |                                        |
|----|-----------|-----------------------------------------|------------|----------------------------------------|
|    |           | (Regd) Vs. Govt. of NCT of Delhi & Ors. | 11.10.2013 |                                        |
| 6. | 1974/2015 | Shivi Talwar Vs. Govt. of NCT of Delhi  | 02.03.2015 | Pending/ Stay still in &Ors. Operation |

39. At this stage, the Court would like to refer to the decision of the Supreme Court in **Abhey Ram** (*supra*) where it is clarified in paragraph 97 as under:

“97. The question whether stay granted to some of the land owners prohibiting the authorities from publication of declaration under Section 6 of the Act would be applicable to others also, who had not obtained stay in that behalf came to be considered by a three-Judge Bench of this Court in the case of **Abhey Ram** (*supra*). In paragraph (9) thereof it has been held as under:

"9. .... The words 'stay of the action or proceeding' have been widely interpreted by this Court and mean that any type of the orders passed by this Court would be an inhibitive action on the part of the authorities to proceed further. When the action of conducting an enquiry under Section 5A was put in issue and the declaration under Section 6 was questioned, necessarily unless the Court holds that enquiry under Section 5A was properly conducted and the declaration published under Section 6 was valid, it would not be open to the officers to proceed further into the matter. As a consequence, the stay granted in respect of some would be applicable to others also who had not obtained stay in that behalf. We are not concerned with the correctness of the earlier direction with regard to Section 5A enquiry and consideration of objections as it was not challenged by the respondent Union. ...."

88. Further in the same judgment, in paragraph 12 it has been held as under:

"12. ... In view of the fact that the notification under Section 4(1) is a composite one and equally the declaration under Section 6 is also a composite one, unless the declaration under Section 6 is quashed in toto, it does not operate as if the entire declaration requires to be quashed. It is seen that the appellants had not filed any objections to the notice issued under Section 5A."

40. In this context, the Court would also refer to the decision in *M. Ramalinga Thevar v. State of T.N. (2000) 4 SCC 322* where the Supreme Court observed as under:

"4. A notification under Section 4(1) of the Act was published in the gazette on 27.2.1991. That notification was challenged by the appellant in writ petition No.9715 of 1991 which he filed before the High Court of Allahabad on 16.7.1991. On the same day an order was passed by the High Court staying dispossession of the appellant from the property involved. Despite the pendency of the said writ petition the Government published declaration under Section 6 of the Act on 10.4.1992. But the award was passed only on 16.9.1994. Thus, there is no doubt that the award was passed only after the expiry of two years from the date of declaration.

6. As per the Explanation the period of exclusion from the time is the period during which "any action or proceedings" to be taken in pursuance of the said declaration is stayed. We have no doubt that one of the actions contemplated pursuant to the declaration is taking possession of the land, though such action is a post-award step in normal circumstances and in emergent circumstances it can as well be a pre-award step. Nonetheless, taking possession is one of the actions to be adopted as a follow-up measure pursuant to the declaration envisaged in Section 6 of the Act. The consequence mentioned in Section 11A is a self-operating statutory process and, therefore, it can operate only when the conditions specified therein conjoin

together. The consequence would step in only when there is fusion of all the conditions stipulated therein. If there is any stay regarding any of the actions to be taken pursuant to the declaration then the consequence of lapse would not happen.”

41. In *Yusufbhai Noormohmed v. State of Gujarat (1991) 4 SCC* while referring to Explanation to Section 11-A of the LAA, which is similar to Explanation 1 to the proviso to Section 6 of the LAA, it was observed as under:

“8. The said Explanation is in the widest possible terms and, in our opinion, there is no warrant for limiting the action or proceeding referred to in the Explanation to actions or proceedings preceding the making of the award under section 11 of the said Act. In the first place, as held by the learned Single Judge himself where the case is covered by Section 17, the possession can be taken before an award is made and we see no reason why the aforesaid expression in the Explanation should be given a different meaning depending upon whether the case is covered by Section 17 or otherwise. On the other hand, it appears to us that Section 11-A is intended to limit the benefit conferred on a land holder whose land is acquired after the declaration under Section 6 is made to in cases covered by the Explanation. The benefit is that the award must be made within a period of two years of the declaration, failing which the acquisition proceedings would lapse and the land would revert to the land-holder. In order to get the benefit of the said provision what is required, is that the land-holder who seeks the benefit must not have obtained any order from a court restraining any action or proceeding in pursuance of the declaration under Section 6 of the said Act so that the Explanation covers only the cases of those land-holders who do not obtain any order from a court which would delay or prevent the making of the award or taking possession of the land acquired. In our opinion, the Gujarat High Court was right in taking a similar view in the impugned judgment.”

42. While there can be no exception taken to the legal proposition in *Padma Sundara Rao v. State of T.N.* (supra), it is necessary to notice that the issue there was whether for the purposes of Section 6 of the LAA, a fresh period of one year was available when a stay had been obtained. There was in fact no discussion of the Explanation-I to the proviso to Section 6 of the LAA. This Court in *Rajinder Kumar Aggarwal v. LG* (supra) has discussed this issue at length and concluded as under:

“27. A judgement of the Court is never treated like a statute. It is necessary to analyze and isolate the ratio decidendi and the decision is only an authority of what it actually decides. Every stray observation in the judgement cannot be picked up as the ratio decidendi. It has, thus, been held that the enunciation of the reason or principle on which a question before a court has been decided is alone binding as a precedent. The prelude to this is a hearing of arguments of questions which arise in the case. If the judgement in *Padma Sundara Rao (Dead) & Ors. case* (supra) is examined in its context taking into consideration the *Oxford English School case* (supra) we are unable to persuade ourselves to agree with the submissions of the learned senior counsel for the petitioner. The question involved in *Oxford English School case* (supra) related to the issue of a stay order passed in respect of an adjacent land by a Minister and not by a court and it was held that such a stay could not be taken into account for purposes of Explanation 1 which required the order of stay to be passed by a court. The observation thereafter beginning with “In any event” has to be categorized as a stray observation in that context, that not being a controversy to be decided.

28. Similarly in *Padma Sundara Rao (Dead) & Ors. case* (supra) the controversy has been set out by the Constitution Bench in para 3 itself which lay in a narrow compass whether after quashing of notification under Section 6 of the said Act a fresh period of one year was available to the State Government to issue notification under Section 6 of the said Act. This was

answered in the negative. It is in that context that the view in *A.S. Naidu case (supra)* and *Oxford English School case (supra)* were affirmed. Nothing more can be read in the judgement of the Constitution Bench. In *Oxford English School case (supra)* it was observed in para 8 as under:

“8.....Since the prohibition on issuance of a declaration under Section 6 after the expiry of three years from the date of the publication of the notification under Section 4(1) is absolute, the High Court could not have given any direction permitting issuance of the declaration under Section 6 within six months from the date of its judgment.”

It is the aforesaid aspect which has been approved by the Constitution Bench in *Padma Sundara Rao (Dead) & Ors. case (supra)*.

29. The subsequent paragraphs 9 & 10 arise from an additional aspect urged by the respondents who were seeking to take advantage of a stay granted. The order of stay discussed in para 10 was of the Minister for Local Administration and it was observed that the same could not be taken into account.

30. We are, thus, unequivocally of the view that the approval of the *Padma Sundara Rao (Dead) & Ors. case (supra)* in respect of the observations in *Oxford English School case (supra)* are restricted to the error committed by the High Court in granting of further time for declaration under Section 6 of the said Act which would not be in conformity with explanation 1 as the only period which can be excluded is the period of stay from court. The Constitution Bench had no occasion to consider the question of the effect of a stay in respect of an adjacent land nor are there any observations or discussion in that behalf in the Constitution Bench judgement. It is in that context in *Padma Sundara Rao (Dead) & Ors. case (supra)* it was observed in para 16 as under:

“16....The fact that the legislature specifically provided for periods covered by orders of stay or

injunction clearly shows that no other period was intended to be excluded and that there is no scope for providing any other period of limitation. *The maxim actus curiae neminem gravabit* highlighted by the Full Bench of the Madras High Court has no application to the fact situation of this case.”

31. We are, thus, of the considered view that the legal point in respect of the plea of the petitioner is well settled and in view of the facts of the case the respondents are entitled to exclude the period of stay in respect of the adjacent land forming part of the same khasra numbers where the land of the petitioners is situated.”

43. In the present cases with there being a stay in one of the matters arising out of the same notification under Section 4 and a declaration under Section 6 of the LAA, that stay would be applicable across the board in all petitions. This principle was reaffirmed by the Supreme Court in ***Om Prakash v. Union of India*** (*supra*). In the present case, therefore, it is futile for the Petitioners to contend that the time period for the issues in Section 6 of the LAA notification has already expired. Since in any event, none of the Petitioners in this batch have challenged the validity of the Section 6 of the LAA notification issued afresh on 8<sup>th</sup> February 2017, this Court was not called upon to deal with that issue.

44. Ms. Marwaha sought to rely upon the decision of the Full Bench of the Punjab and Haryana High Court in ***Deepak Aggarwal v. State of Haryana*** (2018) 1 RCR (Civil) 161. However, the Court is informed that the said judgment has been taken in appeal to the Supreme Court of India and has been stayed by the Supreme Court. Consequently, this Court does not consider it appropriate to discuss the said decision.



45. Ms. Marwaha referred to the whole series of orders passed by this Court, including the order dated 16<sup>th</sup> September, 2014 in W.P. (C) No. 3729/2014 (*Veena Mahajan v. Govt. of NCT of Delhi*), 18<sup>th</sup> March, 2015 in W.P.(C) No. 9162/2014 (*Ms. Krishna Rajouri @ Krishna Saini v. GNCTD*) and so on where this Court had issued a declaration under Section 24 (2) of the 2013 Act of the deemed lapsing of the land acquisition proceedings. Admittedly, those orders were passed in the petitions by the persons who had not earlier litigated before this Court and to whom the notice under Section 5-A of the LAA did not apply. It is possible that as a result of the above declaration, some portions of the land now stand released from the land acquisition proceedings. Still, that would not come to the aid of the present Petitioners since their cases clearly stand on a different footing.

46. The net result of the aforesaid discussion is that the decision in *Sunil Goel* (*supra*) is clearly distinguishable on facts and does not come to the aid of the Petitioners. Throughout the Petitioners have had an interim order in their favour and, therefore, the limitation for issuing a notification under Section 6 of the LAA consequent upon the judgment of the Supreme Court in the *Vasant Kunj Enclave* case, has not commenced.

47. There was a contention about the de-notification of Development Area 176, including the lands in question, included in the notification dated 1<sup>st</sup> June, 2010 issued under Section 12 of the Delhi Development Act ('DD Act'). The Court is not called upon to examine this contention in these petitions for the simple reason that the main relief sought is a declaration that no notification under Section 6 of the LAA can be issued hereafter. The

Court finds that the said relief cannot be granted in any of these petitions for the reasons aforementioned.

***Unauthorised colonies***

48. There is an additional ground on which the reliefs sought in the present petitions cannot be granted. It was noticed earlier that on the Petitioners' own showing as set out in the petition in ***Ruchi Vihar case***, the lands in question are part of unauthorised colonies. To recapitulate the specific averment was: "That presently three unauthorized colonies namely Vasant Kunj Enclave Housing Welfare Society, Ruchi Vihar Housing Welfare Society and Rangpuri Extension are situated on the land covered under the notification and they are under the list of unauthorized colonies numbering 1639 and the Government of NCT of Delhi has taken a policy decision not to acquire any land coming under the unauthorized colonies."

49. Recently in ***Raj Singh v. Lt. Governor, GNCTD*** (decision dated 26<sup>th</sup> February 2019 in W.P. (C) 4612 of 2014, this Court was dealing with a similar issue of relief being sought in respect of lands forming part of an unauthorised colony, relying on the decision in ***Sunil Goel*** (*supra*). While rejecting that prayer, this Court observed:

21. The first major hurdle as far as Petitioners are concerned is that it is not clear how many of the Petitioners are themselves the "original owners" of the land in question. Learned counsel for the Petitioners in response to the query posed by the Court referred to copies of the Khataoni in respect of some of the land in question for the year 1989-90. Even the entries in these Khataonis do not bear the names of any of the Petitioners. None of the Petitioners' names have been mutated in the Khataoni. Clearly therefore these documents do not establish the right or

title of any of the Petitioners to the lands in question.

22. The fact that the lands form part of an unauthorised colony in respect of which a provisional regularisation certificate has been issued is mentioned by the Petitioners themselves. This Court has, in a series of orders following the decision in **Akhil Sibal v. GNCTD** (order dated 10th January, 2019 in WP(C) No. 363/2018), been declining any relief concerning land acquisition proceedings where the lands in question form part of an unauthorised colony. The rationale behind this decision was explained in the decision dated 17th January, 2018 of this Court in WP (C) No. 4528/2015 (**Mool Chand v. Union of India**) 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.”

23. While in the aforementioned cases, relief has been sought in the form of a declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (“the 2013 Act”), the relief in the present case has been sought qua the declaration issued under Section 6 of the LAA vis-a-vis lands that form part of the unauthorised colony. The same logic would apply in the present case as well. The Petitioners consciously took a decision to go along with the Residents Welfare Association (RWA) that was formed for the purposes of applying for regularisation of the unauthorised colony. They joined in the application for regularisation and were party to the series of steps resulting in the issuance of the provisional regularisation certificate. As explained in *Akhil Sibal v. GNCTD* (*supra*) and *Mool Chand v. Union of India* (*supra*), the major premise on which a policy decision was taken to regularise these colonies is that the

persons dwelling therein do not have any legal right or title. The dwellers in the colony proceeded on the basis that the colony constituted an encroachment on either public or private land.

24. Learned counsel for the Petitioner submitted that in the present petition no relief is being claimed regarding the regularisation of the unauthorised colony. She submitted that some of the Petitioners before the Court should themselves be recognised as “owners” of the land in question and therefore they cannot be said to have encroached upon their own lands.

25. Apart from the fact that the Court is not convinced about the right and title of even these Petitioners that the counsel for the Petitioners is referring to, for the reasons already noted hereinbefore, it cannot be denied that even such Petitioners joined the RWA in seeking regularisation. Thus, implicitly, the Petitioners concede that without such regularisation, their occupation of the land in question would be “unauthorised”. Although in the present petition the relief being sought is in regard to the legality of the declaration under Section 6 LAA, the fact remains that the Petitioners are also pursuing with the GNCTD their plea for regularisation of the unauthorised colony, the basic premise of which is that they do not have any valid legal title or interest qua the land in question. As pointed out in *Akhil Sibal* (*supra*), the claims are mutually contradictory and legally untenable.

26. The Court finds that in many such petitions where relief of declaring the land acquisition proceedings, or any of the steps therein to be illegal is sought in respect of lands that form part of the unauthorised colony, it is simply not possible to grant such relief since the very premise or the basis on which the Government is considering regularisation of such unauthorised colonies would be defeated. In other words, it is not possible that some portion of the land which forms part of an unauthorised colony is released from land acquisition and yet the application for regularisation proceeds in accordance with law. It will throw the entire regularisation process into chaos.

This is not an outcome that has been envisaged in the decision in *Sunil Goel v. State* (*supra*). Indeed, the Court finds that nowhere in the decision in *Sunil Goel v. State* (*supra*), is there any discussion as to the effect that the relief sought by the Petitioners will have on the process of regularisation of the unauthorised colony.

27. Consequently, the Court is unable to grant the relief prayed for in the present petition. The dismissal of the present petition will not come in the way of the Petitioners pursuing the relief of regularisation of the unauthorised colony in question.”

50. The above decision in *Raj Singh* (*supra*) would apply to the present petitions as well. This, therefore, is a further ground on which the reliefs sought cannot be granted. However, as clarified in *Raj Singh* (*supra*) it is made clear that the dismissal of the present petitions will not come in the way of the Petitioners pursuing their respective cases for regularisation of the unauthorised colony concerned.

### ***Conclusion***

51. For all the above reasons, the interim orders passed by this Court in the present writ petitions are hereby vacated. The writ petitions and the pending applications are dismissed with costs of Rs.20,000/- in each of the petitions which will be paid by the Petitioners in each petition in equal share of Rs.10,000 each to the LAC and the DDA within four weeks.

**S. MURALIDHAR, J.**

**SANJEEV NARULA, J.**

**MARCH 08, 2019**

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