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

Date of Decision: 18th December 2023

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

+ W.P.(C) 1337/2023

GURSHARAN SINGH CHHABRA

..... Petitioner

Through: Mr. Akshay Makhija, Senior
Advocate with Mr. Adarsh Chamoli
and Mr. Param Aggarwal, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Avishkar Singhvi, ASC with Mr.
Vivek Kr. Singh, Mr. Naved Ahmed
and Mr. Deokinandan Sharma,
Advocates for R-1, 3 and 4.
Mr. Sanjay Kumar Pathak, Standing
Counsel with Mr. M. S. Akhtar, Ms.
Nidhi Thakur, Ms. Archana Kumar,
Advocates for R-2.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition under Article 226 of the
Constitution of India, the petitioner seeks a direction to set-aside
refusal order/deficiency memo dated 14.11.2022 issued by respondent
No. 4, rejecting registration of the sale deed with respect to land



bearing Khasra Nos. 438 min (1-0) and 439 (4-16) ad-measuring about 5 *bigha* 16 *biswa* situate in the revenue estate of Village : Shahoorpur, Tehsil : Saket, New Delhi ('subject land'). The petitioner also seeks a direction to respondent No. 4/Sub-Registrar-V(A), Hauz Khas, New Delhi to register Sale Deed dated 14.11.2022 executed by the petitioner/Gursharan Singh Chhabra as vendor/seller and one M/s. Dolly Farms & Resorts Private Limited as vendee/buyer in respect of the subject land, which was presented for registration on that date.

2. Notice on this petition was issued on 02.02.2023, subsequent to which respondents Nos. 2 and 4 have filed their counter-affidavits dated 19.07.2023 and 24.03.2023 respectively. No rejoinder has been filed by the petitioner in response to the counter-affidavits so filed.
3. The court has heard Mr. Akshay Makhija, learned senior counsel appearing for the petitioner; Mr. Avishkar Singhvi, learned Additional Standing Counsel (Civil) appearing for respondents Nos. 1, 3 and 4; and Mr. Sanjay Kumar Pathak, learned Standing Counsel appearing for respondent No. 2.
4. Written submissions have also been filed on behalf of the petitioner as well as respondent No. 4.

PETITIONER'S SUBMISSIONS

5. Briefly, the petition proceeds on the following narrative :
 - 5.1 The petitioner submits that the land comprised in Khasra No. 438 min (1-0) and 439 (4-16) (with boundary wall) ad-measuring about 5 *bigha* 16 *biswa* situate in the revenue estate of Village : Shahoorpur, Tehsil : Saket, New Delhi was purchased by him from one Mrs. Shanti Devi by way of 04 separate sale deeds



dated 27.06.1991. Copies of the sale deeds have been appended as Annexure P-4 (Colly.) to the present petition. The petitioner accordingly claims to be the sole and absolute owner of the subject land.

- 5.2 It is submitted that earlier, the subject land was acquired *vide* Award No. 10/1987-88 dated 14.05.1987; however it turned-out that the predecessor-in-interest of the petitioner never received any compensation towards the acquisition and physical possession of the subject land was never taken from her.
- 5.3 In the intervening period, Land Acquisition Act, 1894 (**‘1894 Act’**) was replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**‘2013 Act’**); whereupon the petitioner challenged the acquisition of the subject land, in which proceedings *vide* judgement dated 10.11.2014 in W. P (C) No. 5679/2014 titled *G.S. Chhabra vs. Union of India & Ors.* a Division Bench of this court held that the acquisition proceedings initiated under the 1894 Act in respect of the subject land “ *are deemed to have lapsed*” in terms of section 24(2) of the 2013 Act. The Division Bench judgement was challenged before the Supreme Court by way of Civil Appeal Nos. 8618/2016 and 8986/2016, which civil appeals were however dismissed *vide* orders dated 31.08.2016 and 08.09.2016. It is contended therefore, that the Division Bench judgement in *G.S. Chhabra* (supra) has since attained finality.



- 5.4 It is submitted that thereafter the petitioner/Gursharan Singh Chhabra has sold the subject land to one M/s Dolly Farms & Resorts Private Limited *vide* Sale Deed dated 14.11.2022, which sale deed was presented for registration on the same date.
- 5.5 The petitioner's grievance is that upon such presentment however, respondent No. 4/Sub-Registrar (V-A), Hauz Khas ('SRA') has declined to register the sale deed, observing that :
- “ the party has not submitted the NOC/Land Status Report in r/o kh No. 438 min etc. Village shahoorpur, new Delhi. Hence it is refused.”*
- 5.6 It is in the foregoing circumstances that the petitioner has approached this court by way of the present writ petition, assailing the refusal order/deficiency memo dated 14.11.2022 issued by respondent No. 4/SRA; and also seeking a direction to the SRA to register Sale Deed dated 14.11.2022, contending that since, as held by a Division Bench of this court, the acquisition proceedings in respect of the subject land have lapsed, there is no requirement for obtaining a Land Status Report/No-Objection Certificate ('NoC') for registration of the sale deed.
6. In the above backdrop, Mr Makhija, learned senior counsel appearing for the petitioner submits as follows :
- 6.1. That the SRA has refused to register Sale Deed dated 14.11.2022 *only* on the ground that the petitioner has not furnished a Land Status Report/NoC, which ground is untenable in law since the subject land is free from acquisition.



- 6.2. That the Delhi Lands (Restriction on Transfer) Act, 1972 ('1972 Act') envisages certain restrictions on transfer of land under section 3 thereof *only if the land is under acquisition*. On a conjoint reading of sections 4 and 8 of the 1972 Act, it is clear that prior permission to transfer land is required *only* when the land has been acquired, or is proposed to be acquired in connection with any scheme, and in relation to which a declaration has been made under section 6 of the 1894 Act to the effect that the land is required for a public purpose, *but not otherwise*;
- 6.3. That therefore, as a matter of law, there is no requirement under the 1972 Act to obtain an NoC in the present case since the subject land is free of acquisition, the land acquisition award having been quashed by a Division Bench of this court.
- 6.4. To support the above submissions learned senior counsel appearing for the petitioner has placed reliance on the decisions made by Co-ordinate Benches of this court in ***Dinesh Kumar Himatsingka & Anr. vs. Govt. of NCT. of Delhi & Ors.***¹, ***Manzoor-Ul-Haq through his General Power of Attorney (sic) Holder Shri Satish Kumar Aggarwal vs. Government of NCT of Delhi and Ors.***², ***Manjesh Kumar Vohra vs. Government of NCT of Delhi & Ors.***³ and ***O.P.C Jain vs. A.D.M. (LA) & Ors.***⁴ to argue that this court has consistently held that there is no

¹ 2017 SCC OnLine Del 10432 at para 9

² 2021 SCC OnLine Del 4874 at para 9

³ Order dated 18.08.2022 in W.P (C) No. 11318/2022

⁴ 1989 SCC OnLine Del 260



requirement of obtaining a Land Status Report/NoC when the land is not under acquisition or once acquisition proceedings in respect thereof have lapsed.

- 6.5. It has also been argued that the petitioner's case is covered by the decision of this Bench in ***Vinod Kumar Rajoria vs. State (NCT of Delhi)***⁵ wherein, based on decisions of other Co-ordinate Benches, it has been held that “..... *once a parcel of land is free of acquisition proceedings, there is no requirement of obtaining an NoC under section 8 read with section 4 before effecting any transfer.*”; and that the SRA cannot “ *impose an additional statutory compulsion*” and decline registration of a sale deed by demanding that the parties produce an NoC in such circumstances.

RESPONDENTS' SUBMISSIONS

7. On the other hand, Mr. Singhvi, learned Additional Standing Counsel (Civil) appearing for respondents No. 1, 3 and 4 has opposed the grant of relief prayed for, making the following arguments :
- 7.1. That, relating back to section 4 of the 1972 Act, it is the mandate of the law that any Registering Officer appointed under the Registration Act 1908, shall not register any document unless the transferor produces before such Registering Officer permission in writing from the competent authority for such transfer.
- 7.2. That in the present case, while processing registration of the sale deed, the Sub-Registrar of Assurances ('SRA') did not

⁵ 2023 SCC OnLine Del 5446



have any records relating to the subject land; and therefore, in order to prevent fraudulent transactions and as a measure of reasonable diligence, it was necessary for the SRA to demand that the seller should produce an NoC from the Land Acquisition Collector ('LAC'), to ascertain the status of the land.

- 7.3. That, even on purely practical considerations, in every case, the records to show whether the land is, or was at some stage, under acquisition are available only with the LAC but not with the SRA, who (latter) is therefore not in a position to verify the status of acquisition of land unless an NoC is produced from the LAC.
- 7.4. That, for the foregoing reasons, circular dated 04.02.2020 issued by the Divisional Commissioner has laid-down the administrative requirement making it necessary for the SRA to obtain a Land Status Report/NoC to ascertain the status of the land *i.e.* whether the land is under acquisition or not, before allowing registration of a sale deed.
- 7.5. That the decision of this Bench in *Vinod Kumar Rajoria* (supra) has no application to the present case, since in that matter the parties had applied for prior permission to transfer land, which was denied in the Land Status Report/NoC, but in the present case the petitioner has not applied for a Land Status Report/NoC at all.
8. Mr. Pathak, learned Standing Counsel appearing for respondent No. 2 has concurred in the submissions made by Mr. Singhvi on behalf of



respondents Nos. 1, 3 and 4; submitting additionally, that since no application for obtaining a Land Status Report/NoC was ever filed by the petitioner, no cause of action has arisen against respondent No. 2 in any case.

DISCUSSION & CONCLUSIONS

9. Before proceeding to discuss the issues raised in the matter, it is essential to notice the relevant statutory provisions of the 1972 Act, as referred to by learned counsel for the parties :

3. Prohibition on transfer of lands acquired by Central Government.— No person shall purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which has been acquired by the Central Government under the Land Acquisition Act, 1984 (1 of 1894) or under any other law providing for acquisition of land for a public purpose.

4. Regulation on transfer of lands in relation to which acquisition proceedings have been initiated.— No person shall, except with the previous permission in writing of the competent authority, transfer or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which is proposed to be acquired in connection with the Scheme and in relation to which a declaration to the effect that such land or part thereof is needed for a public purpose having been made by the Central Government under section 6 of the Land Acquisition Act, 1894 (1 of 1894), the Central Government has not withdrawn from the acquisition under section 48 of that Act.

8. Restrictions on registration of transfers of land.— Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of Section 17 of the Registration Act, 1908 (16 of 1908), purports to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof referred to in Section 4, no registering officer appointed under that Act shall register any such document unless the transferor produces before such



registering officer a permission in writing of the competent authority for such transfer.

(emphasis supplied)

10. Clearly therefore, the requirement of producing a Land Status Report/NoC before the transfer of any rights in land is registered by a registering officer under the Registration Act 1908 derives from a conjoint reading of sections 4 and 8 of the 1972 Act. This requirement is intended to implement the mandate contained in section 4 which says - that if a parcel of land is proposed to be acquired in connection with a scheme of acquisition and in relation to which a declaration has been made under section 6 of the 1894 Act (to the effect that such land or part thereof is needed for a public purpose) and the Central Government has not withdrawn from acquiring such land under section 48 of the Land Acquisition Act - such land cannot be transferred (by sale, mortgage, gift, lease or otherwise) without obtaining prior permission in writing from the Land Acquisition Collector.
11. However, as consistently enunciated in a catena of decisions of this court as referred to above, the position of law is that the requirements of sections 4 and 8 *have no application to land which is not under acquisition.*
12. In fact, after considering the aforesaid statutory provisions as well as several earlier judgements, this Bench has in *Vinod Kumar Rajoria* (supra) opined as follows :

“10.6. A plain reading of sections 4 and 8 of the 1972 Act, as also interpreted in the afore-cited precedents, makes it abundantly clear that once a parcel of land is free of acquisition proceedings, there is no



requirement of obtaining an NoC under section 8 read with section 4 before effecting any transfer;

“10.7. Furthermore, though circular dated 04.02.2020 may have been issued by the Divisional Commissioner with the purported aim and intent of conducting additional due diligence in relation to transfer of agricultural lands, and requires the Registering Authority to insist on an NoC under section 8 of the 1972 Act to protect unsuspecting buyers from fraudulent sellers, but regardless of how well intentioned it may be, this circular cannot impose an additional statutory compulsion upon parties. Accordingly, in the opinion of this court, the Sub-Registrar of Assurances cannot insist on production of such certificate; or decline registration of a document unless such certificate is produced. This is especially so, in view of the legal position as enunciated in the verdicts of the Delhi High Court, as cited above, in which the court has rejected the imposition of any such requirement, holding that there is no justification for it.”

(emphasis supplied)

13. In this regard, the following observations made in other Co-ordinate Bench judgements cited on behalf of the petitioner may also be noticed:

13.1. In **Satish Kumar & Anr. vs. The Sub-Registrar IX & Ors.**⁶ the court had this to say :

“4. In my opinion, the said stand has no legal basis for the reason, under the Delhi Land (Restriction of Transfer) Act 1972, no objection has to be obtained in respect of lands which are under acquisition. Instant lands are not under any kind of acquisition.

“5. I may note that the respondent No.1 is requiring persons to obtain certificates from the revenue authorities that the land subject matter of sale deed submitted for registration is not under acquisition. From where this power is being exercised by respondent No.1 is not forthcoming on record in any proceedings. Respondent No.1 seems to be under a mistaken belief that wherever agricultural land is sold, a no

⁶ Order dated 29.03.2006 in W.P (C) No. 2609-10/2006



objection certificate is required under the Delhi Land (Restriction of Transfer) Act 1972.

“6. For future guidance of respondent No. 1, I may note that it’s concern is not with the issue whether the lands are under acquisition or not. Needless to state, if somebody obtains a sale deed in respect of land which is under acquisition, the same would be hit by the Delhi Land (Restriction on Transfer) Act 1972. Meaning thereby, that the purchaser would not be entitled to predicate any claim under the sale deed.”

(emphasis supplied)

13.2. In **Narender Kumar Jain vs. Sub-Registrar-IX, Delhi** ⁷

wherein a gift deed was sought to be executed, it was directed that “ ... *in case there is any doubt as to whether the lands are subject matter of acquisition, the respondent shall verify the position.*”, meaning thereby, that it is for the SRA to verify whether the land in question is under acquisition instead of demanding that the seller should produce a land status report/NoC.

14. In the opinion of this court, by insisting on production of a Land Status Report/NoC before allowing registration, despite the settled legal position that when a parcel of land is not proposed to be acquired sections 4 and 8 of the 1972 Act do not apply, the administrative authorities are imposing a pre-condition on transfer of rights in such land *without any authority of law*, and the imposition of such condition is plainly beyond the scope of the statutory provision itself. Such imposition cannot therefore be countenanced in law.

15. To reiterate, the mandate of the law is that once a parcel of land is free of acquisition, it is *not* necessary for a party to obtain a Land Status

⁷ Order dated 01.09.2006 in W.P (C) 9541/2006



Report/NoC from any authority before being permitted to register the transfer or conveyance of any rights in such land by way of sale, mortgage, gift, lease or otherwise. Correspondingly, the Sub-Registrar of Assurances cannot insist or demand that a party must produce any such Land Status Report/NoC or other prior permission before registering documents of transfer.

16. However, this court also considers it necessary to address the concern raised by Mr. Singhvi as well as Mr. Pathak, namely that it is desirable to have an official mechanism in place, by which, before registering a document transferring rights in land, the Sub-Registrar of Assurances should be able to get official confirmation from the Land Acquisition Collector that the land is not under acquisition, if only by way of additional due diligence, to obviate future disputes *inter-partes* or with the Government. It has been stressed that such mechanism is required since, in the absence thereof, a Sub-Registrar of Assurances has no official knowledge whether any given parcel of land is under acquisition or not. Counsel have informed the court that there is no official mechanism available for this purpose except by way of requiring parties to produce a Land Status Report/NoC under the 1972 Act. Since experience shows that absent such mechanism the SRA and the LAC adopt the easiest way forward, namely of rejecting the registration of a document, forcing parties to adopt avoidable litigation, this court is persuaded to put in place a mechanism as set-out below.
17. It is directed that whenever a document purporting to transfer or convey any rights, titles, or interests in land is presented to the Sub-



Registrar of Assurances for registration, the concerned SRA would proceed to verify whether such land is or is not under acquisition in the following manner :

- 17.1. *Firstly*, the Sub-Registrar of Assurances would check, whether on a plain reading of the document sought to be registered, it *recites* that the land that is subject matter of the transfer or conveyance is *not under acquisition*. In the absence of such assertion, the SRA would be entitled to return the document to the parties, for making appropriate changes therein;
- 17.2. *Secondly*, if the recital referred to in the foregoing para is contained in the document, *but the SRA still entertains a doubt* as to whether the land is under acquisition, the SRA would then - *through their own internal administrative mechanism* - verify from the concerned Land Acquisition Collector whether the subject land is under acquisition; and if so, the particulars of the acquisition award and the current status of the award, that is to say whether the award is pending challenge in court, or whether acquisition proceedings have lapsed, or the award has been set-aside;
- 17.3. The SRA shall call for a verification report from the concerned LAC, as above, within 01 (one) week of a document being presented to the SRA's Office for registration; and the LAC shall furnish the verification report within 03 weeks thereafter. A copy of the verification report received from the LAC shall



also be furnished by the SRA to the person who has presented the document for registration;

- 17.4. If the report received from the LAC verifies that the land is free from acquisition, the SRA would promptly proceed to register the document within 03 days thereafter; and
- 17.5. Needless to add that if the executants do not recite in the document that the land is *not* under acquisition and/or the LAC report says that the land *is* under acquisition, the provisions of the 1972 Act would come into play and the transaction and registration of the document would then be governed by the provisions of that statute.
18. It is important to reiterate that the above internal administrative mechanism is being put in place only to address the administrative concerns raised on behalf of the SRA and the LAC; and such mechanism is in no way meant to derogate from the legal position that *once a parcel of land is not under acquisition, the provisions of the 1972 Act have no application*. It is emphasized that the SRA would adopt the verification mechanism set-out in para 17.2 above *only if there is a doubt* as to the status of the land, and not in every case.
19. As a sequitur to the above discussion, this court is persuaded to allow the writ petition, thereby quashing the refusal order/deficiency memo dated 14.11.2022 issued by respondent No. 4/Sub-Registrar-V(A), Hauz Khas, New Delhi declining to register Sale Deed dated 14.11.2022 executed by the petitioner/Gursharan Singh Chhabra as vendor/seller in favour of M/s. Dolly Farms & Resorts Private Limited as vendee/buyer in respect of the subject land; and directing



that the sale deed be registered within 01 week of re-presentment, without demur.

20. It is made clear that such registration will be done notwithstanding the provisions of sections 23 and 25 of the Registration Act, 1908 which otherwise require presentment of a document within a maximum of 08 months from the date of its execution, since this would be a case of re-presentment.
21. The writ petition is allowed and disposed-of in the above terms.
22. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 18, 2023

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(Released on : 02nd January 2024)