

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

% Date of decision: 7th February, 2023

+ W.P.(C) 752/2020, CM APPL. 40589/2021

NARENDER AND ORS.

..... Petitioner

Through: Mr. Randhir Singh Duhan, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Sumit Gupta and
Ms.Aanchal Seth, Advs. for R3

AND

+ W.P.(C) 755/2020, CM APPL. 40597/2021

SUMITRA AND ORS.

..... Petitioners

Through: Mr. Randhir Singh Duhan, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Sumit Gupta and
Ms.Aanchal Seth, Advs. for R3

AND

+ W.P.(C) 845/2020

VIDYA AND ORS.

..... Petitioners

Through: Mr. Randhir Singh Duhan, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Sumit Gupta and
Ms.Aanchal Seth, Advs. for R3

AND

+ W.P.(C) 889/2020, CM APPL. 5752/2020

NIRMALA AND ORS.

..... Petitioners

Through: Mr. Randhir Singh Duhan, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Sumit Gupta and
Ms.Aanchal Seth, Advs. for R3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. As a common issue arises for consideration in the captioned petitions, they are being considered and decided by this common order.

2. The prayers in the writ petitions are the following:

W.P.(C) 752/2020

“a) To issue writ in the nature of mandamus directing thereby for quashing and setting aside the time barred and lapsed Land Acquisition Proceedings and setting aside the award dated 03.07.2018 passed by the Competent Authority for land acquisition for NHAI as the award is passed after the stipulated, period of 12 months as the Land Acquisition proceedings have lapsed.

- b) To set aside the land acquisition proceedings as land resettlement and rehabilitation award not been passed under section 31 of Act,*
- c) To direct respondent no. 1 to 3 to pass the award on resettlement and rehabilitation award as per NRRP Policy and alongwith schedule Two and schedule Three.*
- d) To set aside the ex parte land acquisition award dated 03.07.2018 passed against the petitioner without affording an opportunity of hearing before determining the amount of compensation with other material irregularities and infirmities in publication of land acquisition proceedings without site plan and structures and pass and separate individual fresh awards.*
- e) To direct pass the fresh award, after affording an opportunity of hearing and by complying the provisions of Section 3 (G) (2) and (4) of NH Act, 1956 read with Section 12 and 26 to 30 of RFCTFLARR Act, 2013 for re-determining the amount of compensation, for land as well as resettlement and rehabilitation entitlements, if they (Respondents) want to save the illegal lapsed and ab-initio proceedings and awards*
- f) To direct respondent no. 1 to re-determine the market value on the basis of the sale deeds mentioned by the petitioner's with other provisions of section 3 G(2) of NH Act (with 10% Amount) and other parameters with interest (Section 28) mentioned in Sections 13, 26 to 30 of the Act for unpaid amounts entitled for parameters with additional interest as directed by the NHAI guidelines also pay the amount of compensation for un-notified land;*
- g) To direct the all respondents to invite the petitioners to settle the amount of compensation under the chairmanship of Arbitrator/Collector and for settlement of disputes through mediation, conciliation and settlement under section 30 of Arbitration and*

conciliation Act in stipulated period of time under the supervision this court.”

W.P.(C) 755/2020

“a) To issue writ in the nature of mandamus directing thereby for quashing and setting aside the time barred and lapsed Land Acquisition Proceedings and setting aside the award dated 29-4-2016 passed by the Competent Authority for land acquisition for NHAI as the award is passed after the stipulated period of 12 months as the Land Acquisition proceedings have lapsed.

b) To set aside the land acquisition proceedings as land resettlement and rehabilitation award not been passed under section 31 of Act,

c) To direct respondent no. 1 to 3 to pass the award on resettlement and rehabilitation award as per NRRP Policy and alongwith schedule Two and schedule Three.

d) To set aside the ex parte land acquisition award dated 01.03.2016 passed against the petitioner without affording an opportunity of hearing before determining the amount of compensation with other material irregularities and infirmities in publication of land acquisition proceedings without site plan and structures and pass and separate individual fresh awards.

e) To direct pass the fresh award after affording an opportunity of hearing and by complying the provisions of Section 3 (G) (2) and (4) of NH Act, 1956 read with Section 12 and 26 to 30 of RFCTFLARR Act, 2013 for re-determining the amount of compensation, for land as well as resettlement and rehabilitation entitlements, if they (Respondents) want to save the illegal lapsed and ab-initio proceedings and awards

f) To direct respondent no. 1 to re-determine the market value on the basis of the sale deeds mentioned by the petitioner's with other provisions of section 3 G(2) of NH

Act (with 10% Amount) and other parameters with interest (Section 28) mentioned in Sections 13, 26 to 30 of the Act for unpaid amounts entitled for parameters with additional interest as directed by the NHAI guidelines also pay the amount of compensation for un-notified land;

g) To direct the all respondents to invite the petitioners to settle the amount of compensation under the chairmanship of Arbitrator/Collector and for settlement of disputes through mediation, conciliation and settlement under section 30 of Arbitration and conciliation Act in stipulated period of time under the supervision this court.”

W.P.(C) 845/2020

“a) To issue writ in the nature of mandamus directing thereby for quashing and setting aside the time barred and lapsed Land Acquisition Proceedings and setting aside the award dated 01.03.2016 passed by the Competent Authority for land acquisition for NHAI as the award is passed after the stipulated period of 12 months as the Land Acquisition proceedings have lapsed.

b) To set aside the land acquisition proceedings as land resettlement and rehabilitation award not been passed under section 31 of Act,

c) To direct respondent no. 1 to 3 to pass the award on resettlement and rehabilitation award as per NRRP Policy and alongwith schedule Two and schedule Three.

d) To set aside the ex parte land acquisition award dated 01.03.2016 passed against the petitioner without affording an opportunity of hearing before determining the amount of compensation with other material irregularities and infirmities in publication of land acquisition proceedings without site plan and structures and pass and separate individual fresh awards.

e) To direct pass the fresh award after affording an opportunity of hearing and by complying the provisions of Section 3 (G) (2) and (4) of NH Act, 1956 read with Section 12 and 26 to 30 of RFCTFLARR Act, 2013 for re-determining the amount of compensation, for land as well as resettlement and rehabilitation entitlements, if they (Respondents) want to save the illegal lapsed and ab-initio proceedings and awards

f) To direct respondent no. 1 to re-determine the market value on the basis of the sale deeds mentioned by the petitioner's with other provisions of section 3 G(2) of NH Act (with 10% Amount) and other parameters with interest (Section 28) mentioned in Sections 13, 26 to 30 of the Act for unpaid amounts entitled for parameters with additional interest as directed by the NHAI guidelines also pay the amount of compensation for un-notified land;

g) To direct the all respondents to invite the petitioners to settle the amount of compensation under the chairmanship of Arbitrator/Collector and for settlement of disputes through mediation, conciliation and settlement under section 30 of Arbitration and conciliation Act in stipulated period of time under the supervision this court.”

W.P.(C) 889/2020

“i. To issue writ in the nature of mandamus directing thereby for quashing and setting aside the time barred and lapsed Land Acquisition Proceedings and setting aside the award dated 19.03.2016 passed by the Competent Authority for land acquisition for NHAI as the award is passed after the stipulated period of 12 months as the Land Acquisition proceedings have lapsed.

ii. To set aside the land acquisition proceedings as land resettlement and rehabilitation award not been passed under section 31 of Act,

iii. To set aside the ex parte land acquisition award dated 19.03.2016 passed against the petitioner without affording an opportunity of hearing before determining the amount of compensation with other material irregularities and infirmities in publication of land acquisition proceedings without site plan and structures and pass and separate individual fresh awards.

iv. To direct pass the fresh award after affording an opportunity of hearing and by complying the provisions of Section 3 (G) (2) and (4) of NH Act, 1956 read with Section 12 and 26 to 30 of RFCTFLARR Act, 2013 for re-determining the amount of compensation, for land as well as resettlement and rehabilitation entitlements, if they (Respondents) want to save the illegal lapsed and ab-initio proceedings and awards

v. To direct respondent no. 1 to re-determine the market value on the basis of the sale deeds mentioned by the petitioner's with other provisions of section 3 G(2) of NH Act (with 10% Amount) and other parameters with interest (Section 28) mentioned in Sections 13, 26 to 30 of the Act for unpaid amounts entitled for parameters with additional interest as directed by the NHAI guidelines also pay the amount of compensation for un-notified land;

vi. To direct the all respondents to invite the petitioners to settle the amount of compensation under the chairmanship of Arbitrator/Collector and for settlement of disputes through mediation, conciliation and settlement under section 30 of Arbitration and conciliation Act in stipulated period of time under the supervision this court.”

3. In effect, the petitioners in this batch of petitions are seeking reliefs for setting aside and quashing the land acquisition proceedings including the awards, passed by the Competent

Authority based in Saharanpur, as the awards have been passed beyond the stipulated period of 12 months. They seek the following:-

(i) Set aside the land acquisition proceedings as the land resettlement and rehabilitation awards have not been passed under Section 31 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('Act of 2013, hereinafter).

(ii) Set aside the *ex parte* awards as the same were passed without affording an opportunity of hearing.

(iii) Issue directions to pass fresh awards after affording an opportunity of hearing and by complying with the provisions of the National Highways Act, 1956 ('Act of 1965', hereinafter).

(iv) Direct the respondent No.1 to re-determine the market value based on the sale deeds mentioned by the petitioners and other provisions of the Act of 1956 with interest, and direct the respondents to invite the petitioners to settle the amount of compensation under the Chairmanship of Arbitrator / Collector.

4. The facts as noted from the petitions are that the lands of the petitioners have been acquired under the Act of 1956 and possession thereof has also been taken. The lands in question are situated in District Saharanpur, Uttar Pradesh and the awards have been passed by the Competent Authority for land acquisition for the National Highways Authority of India ('NHAI', for short)

Dehradun. The awards were declared for the lands in W.P.(C) 752/2020 on July 3, 2018; W.P.(C) 755/2020 on April 29, 2016; W.P.(C) 845/2020 on March 1, 2016 and W.P.(C) 889/2020 on March 19, 2016.

5. An issue arose whether this Court would have the jurisdiction to entertain the writ petitions, particularly in view of the relief sought by the petitioners.

6. The learned counsel for the petitioners would urge that this Court has the jurisdiction, as a part of the cause of action has arisen in Delhi, inasmuch as the acquisition of land under the Act of 1956 has been issued by the NHAI whose head office is situated in Delhi.

7. We are not in agreement with the submission made by the learned counsel for the petitioners for the reason that apart from the fact that the land is situated in Saharanpur, even the award clearly stipulates that the acquiring body is NHAI, Dehradun. That apart, even the reliefs which have been prayed for, are with regard to awards passed by the Competent Authority based in Saharanpur. Merely because the head office of NHAI is situated in Delhi would not give a cause of action to the petitioners to move this Court, more so when the acquiring body was NHAI, Dehradun; the lands are situated in District Saharanpur, Uttar Pradesh and the prayers made are by challenging the awards. Hence in that sense, no part of cause of action has arisen in Delhi. Hence, this Court has no jurisdiction to entertain the writ petitions. The law in this regard is

no more *res integra*. The Supreme Court in the case of ***State of Rajasthan and Ors. v. M/s Swaika Properties and Anr., (1985) 3 SCC 217***, while setting aside an order of *rule nisi* passed by the Single Judge of the Calcutta High Court, has held as under:

“8. The expression “cause of action” is tersely defined in Mulla’s Code of Civil Procedure:

“The ‘cause of action’ means every fact which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court.”

In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. The mere service of notice under Section 52(2) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta i.e. within the territorial limits of the State of West Bengal, could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating in the acquisition of the land under Section 52(1) of the Act arose within the State of Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench. The answer to the question whether service of notice is an integral part of the cause of action within the meaning of Article 226(2) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action. The notification dated February 8, 1984 issued by the State Government under Section 52(1) of the Act became effective the moment it was published in the Official Gazette as thereupon the notified land became vested in the State Government free from all encumbrances. It was not necessary for the respondents to plead the service of notice on them by the Special Officer, Town Planning Department, Jaipur under Section 52(2) for the grant of an appropriate writ, direction or order under Article 226

of the Constitution for quashing the notification issued by the State Government under Section 52(1) of the Act. If the respondents felt aggrieved by the acquisition of their lands situate at Jaipur and wanted to challenge the validity of the notification issued by the State Government of Rajasthan under Section 52(1) of the Act by a petition under Article 226 of the Constitution, the remedy of the respondents for the grant of such relief had to be sought by filing such a petition before the Rajasthan High Court, Jaipur Bench, where the cause of action wholly or in part arose.”

8. It is a law well settled that cause of action is a bundle of facts taken together with law, in order to give the litigant a right to pursue a *lis*. Not all facts averred in the pleadings by a party would constitute a part of cause of action. To determine whether an averment of fact made in the pleadings would constitute a part of cause of action, it must be considered whether the fact is actually relevant to the *lis*. While it is true that even if a fraction of the cause of action arises within the jurisdiction of the Court, it would have the territorial jurisdiction to entertain the matters, it must necessarily be “*a part of cause of action*”. In this regard, we may refer to the judgment in the case of ***National Textile Corporation Ltd. and Ors. v. Haribox Swalram and Ors., (2004) 9 SCC 786*** wherein the Apex Court, referring to its earlier decision in ***State of Rajasthan (supra)*** held as under:

“10. Under clause (2) of Article 226 of the Constitution, the High Court is empowered to issue writs, orders or directions to any Government, authority or person exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power,

notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. Cause of action as understood in the civil proceedings means every fact which, if traversed, would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. To put it in a different way, it is the bundle of facts which taken with the law applicable to them, gives the plaintiff a right to relief against the defendant. In Union of India v. Adani Exports Ltd. [(2002) 1 SCC 567 : AIR 2002 SC 126] in the context of clause (2) of Article 226 of the Constitution, it has been explained that each and every fact pleaded in the writ petition does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned. A similar question was examined in State of Rajasthan v. Swaika Properties [(1985) 3 SCC 217: AIR 1985 SC 1289] . Here certain properties belonging to a company which had its registered office in Calcutta were sought to be acquired in Jaipur and a notice under Section 52 of the Rajasthan Urban Improvement Act was served upon the company at Calcutta. The question which arose for consideration was whether the service of notice at the head office of the company at Calcutta could give rise to a cause of action within the State of West Bengal to enable the Calcutta High Court to exercise jurisdiction in a matter where challenge to acquisition proceedings conducted in Jaipur was made. It was held that the entire cause of action culminating in the acquisition of the land under Section 152 of the Rajasthan Act arose within the territorial jurisdiction of the Rajasthan High Court and it was not necessary for the company to plead the

service of notice upon them at Calcutta for grant of appropriate writ, order or direction under Article 226 of the Constitution for quashing the notice issued by the Rajasthan Government under Section 52 of the Act. It was thus held that the Calcutta High Court had no jurisdiction to entertain the writ petition.”

(Emphasis supplied)

9. Further, a co-ordinate Bench of this Court in the case of ***Centre for Public Interest Litigation v. Union of India, 2018 SCC OnLine Del 11564***, while dealing with an issue as to whether this Court has the territorial jurisdiction to entertain the writ petition therein, has held as under:

“19. In view of the aforesaid law, to decide whether this Court has the territorial jurisdiction to entertain the writ petition, it is necessary for the petitioner to show that at least a part of cause of action has arisen within the territorial jurisdiction of this Court. There is no dispute that the tender has been issued from Gandhidham, Gujarat. The land for which the tender has been issued is situated in Kutch, Gujarat. The tenders received were considered in Gandhidham, Gujarat. The decision-making authority is also in Gandhidham, Gujarat. The averments in the writ petition are also directed against the Kandla Port Trust and FSWAI which are situated in the State of Gujarat. In fact, there is no averment in the writ petition relating to the tender/award of the same, imputing to the respondent No. 1/Union of India. In other words, no part of cause of action has arisen within the territorial jurisdiction of this Court. The plea of Mr. Prashant Bhushan by referring to various Sections (as referred to above), of the Major Port Trusts Act, 1963 to contend that the Central Government has role to play in the working of the Kandla Port Trust, is without any merit.....”

(emphasis supplied)

10. From the foregoing, it is clear that this Court does not have the jurisdiction to entertain the present petitions, as no part of the cause of action has arisen within the territorial limits of this Court.

11. Accordingly, the writ petitions and connected applications are dismissed. Liberty is with the petitioners to approach the Court of competent jurisdiction in accordance with law.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

FEBRUARY 07, 2023/aky

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