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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 04th September 2023

+ W.P.(C) 5155/2023

VINOD KUMAR RAJORIA

..... Petitioner

Through: Mr. Rajesh Yadav, Senior Advocate
with Ms. Ruchira V. Arora and
Mr.Dhananjay Mehlawat, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Prashant Manchanda, ASC with
Ms. Nancy Shah, Ms. Khushboo
Tomar and Mr. Diwakar Chirania,
Advocates.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J. (ORAL)

By way of the present petition filed under Article 226 of the Constitution of India, the petitioner seeks a direction to quash the action of the respondents whereby they have rejected an application dated 20.10.2022 made by the petitioner seeking a No-Objection Certificate/permission under the Delhi Lands (Restriction on Transfer) Act, 1972 ('1972 Act', for short), for registration of a sale deed in respect of the land comprised in Khasra No. 242 (2-8-10) situate in Village : Khanpur, Tehsil Hauz Khas, District South, Delhi ('subject land', for short).



2. The petitioner has also sought a direction to respondent No. 3/Sub-Registrar (V-A), Hauz Khas, New Delhi to register Sale Deed dated 26.10.2022 presented for registration on that date, as executed by Mrs. Anjali Vohra and Dr. Ajay Bahl as vendors/sellers/transferors and the petitioner/Mr. Vinod Kumar Rajoria as vendee/buyer/transferee without insisting on any prior permission or No-Objection Certificate under the 1972 Act.
3. Notice on this petition was issued 24.03.2023. Subsequent thereto, respondents Nos. 2 and 3 have filed their respective short affidavits, both dated 25.05.2023. No rejoinder has been filed by the petitioner in response to the short affidavits.
4. The court has heard Mr. Rajesh Yadav, learned senior counsel appearing for the petitioner; and Mr. Prashant Manchanda, learned Additional Standing Counsel (Civil) appearing for the respondents. Written submissions have also been filed on behalf of the petitioner as well as the respondents.

BRIEF FACTS

5. Briefly, the factual narrative in the present case is as follows :
 - 5.1. Land comprised in Khasra No. 242 (2-8-10) situate in Village : Khanpur, Tehsil Saket (M.B. Road), Delhi was sold to one Sainik Cooperative House Building Society *vide* Sale Deed dated 12.06.1964. Subsequently, *vide* order/judgment dated 07.11.1967 made in Suit No. 616/1967, the then Sub-Judge (First Class), Delhi declared one Lt. Col. Harish Bahl as the sole and absolute owner of the subject land. The subject land



thereafter came to be notified for acquisition *vide* Award No. 17/87-88. The award was however set-aside and acquisition proceedings were quashed *vide* order dated 25.09.1989 made by a Division Bench of this court in C.W.P. No. 38/1988 titled ***Lt. Col. R.S. Kalra and Ors. vs. Administrator, Union Territory of Delhi & Ors.***

- 5.2. It also transpires that later, *vide* notification dated 28.05.1996 issued under section 507(a) of the Delhi Municipal Corporation Act, 1957 ('DMC Act', for short), Village : Khanpur was 'urbanised' and ceased to be a rural area.
- 5.3. Lt. Col. Harish Bahl, as sole and absolute owner, got his name mutated in the revenue records, as evidenced by Khasra Girdwari for the year 1995-96 in respect of Khasra No. 242 min (4-5) against Khatauni Khata No. 279.
- 5.4. Furthermore, the name of Lt. Col. Harish Bahl also appeared in the Khatauni for the year 1998-99 in relation to Khasra No. 242 min (4-5), which revenue record also indicated the period of commencement of *bhumidari* rights as of 1967-68. The same was the position in the Khasra Girdwari for the year 2011-12, where the name of Lt. Col. Harish Bahl appeared against Khasra No. 242 min (4-5).
- 5.5. The said Lt. Col. Harish Bahl passed away on 15.08.2016, as evidenced by Death Certificate dated 14.09.2016. He was survived by Dr. Swarn Kataria (his second wife) and his two



children (both from his first wife), Mrs. Anjali Vohra and Dr. Ajay Bahl.

- 5.6. Thereafter, *vide* Relinquishment Deed dated 13.04.2017 executed by Dr. Swarn Kataria, she relinquished all her rights, titles and interests in and to the subject land in favour of her step-children, Mrs. Anjali Vohra and Dr. Ajay Bahl.
- 5.7. After the demise of Lt. Col. Harish Bahl, the within-named Dr. Swarn Kataria, Mrs. Anjali Vohra and Dr. Ajay Bahl obtained Surviving Member Certificate dated 01.07.2017 from the District Magistrate, South East, Kalkaji, New Delhi, which narrated that the deceased had “ ... *left following surviving members in his family*” going-on to name the aforesaid three persons in the certificate, thereby certifying them as the surviving members of the deceased.
- 5.8. On 23.12.2017, Dr. Swarn Kataria also passed away, as evidenced by Death Certificate dated 03.01.2018; whereupon Mrs. Anjali Vohra and Dr. Ajay Bahl obtained from the District Magistrate, Kalkaji, South-East District, New Delhi, a Surviving Member Certificate dated 19.09.2018, naming them as the surviving members of the family.
- 5.9. Thereafter, Mrs. Anjali Vohra and Dr. Ajay Bahl sold the subject land to the petitioner/Mr. Vinod Kumar Rajoria *vide* Sale Deed dated 26.10.2022. At that stage, *vide* application 20.10.2022 the petitioner (as vendee/buyer) applied to the



Department of Revenue, Government of NCT of Delhi for issuance of a Land Status Report.

- 5.10. In response to such application, *vide* Land Status Report dated 04.11.2022, the Patwari recorded that though the vendors/sellers (*viz.* Mrs. Anjali Vohra and Dr. Ajay Bahl) *were the legal heirs of the recorded owner* (*viz.* Lt. Col. Harish Bahl); and that there was *no case or objection pending* against the share/land of the sellers; and that the *village had been urbanised*, it was ‘advisable’ to obtain a report from the Land Acquisition Collector (South) (‘LAC (South)’, for short) in relation to the status of the land - he said “अधिग्रहण सम्बन्धी रिपोर्ट LAC (South) से ली जानी उचित है ” – presumably, the reference being to a report in relation to any acquisition proceedings that may be pending in respect of the subject land.
- 5.11. In the meantime, the parties presented Sale Deed dated 26.10.2022 for registration; but upon presentment, *vide* order dated 01.12.2022 the Sub-Registrar (V-A), Hauz Khas declined to register the deed, observing that since the executant had “*failed to submit the NOC from the competent authority under Section 8 of the Delhi Lands (Restriction on Transfer) Act 1972*”, registration of the document was being refused.
- 5.12. Subsequently, Status Report dated 17.01.2023 was received from the Kanungo, Land Acquisition Branch (South), the relevant portion of which narrates as under :



6.	<i>Whether acquisition processing quashed by any competent authority.</i>	<i>The land pertaining to khasra Nos as mentioned above has been acquired vide Award Nos. 17/87-88 <u>but the acquisition proceedings are hereby (sic) quashed</u> vide order dated 25.09.1989, CWP No. 38/1988 titled Shri R.S. Kalra & Ors. Vs. Administrator U.T. of Delhi & Ors. (Copy enclosed)</i>
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(emphasis supplied)

5.13. Order dated 25.09.1989 in C.W.P No.38/1988, referred to in the aforesaid status report, was a short order whereby the Division Bench of this court had proceeded to quash *all* proceedings relating to acquisition of the subject land based upon its judgment dated 18.11.1988 made in C.W.P. No. 1639/1985 titled *B. R. Gupta vs. Union of India & Ors.*

5.14. However, in view of order dated 01.12.2022 made by the Sub-Registrar (V-A), Hauz Khas denying registration of the sale deed for want of a No-Objection Certificate ('NoC'), on 27.02.2023 the petitioner again applied for a Land Status Report/NoC. However, the respondents have failed to issue such report/NoC.

5.15. Alongwith his counter-affidavit dated 25.05.2023 filed in the present proceedings, respondent No. 2/ADM (South) has annexed file notings/orders made on the petitioner's application, which indicate that issuance of NoC was not approved since the sellers viz. Mrs. Anjali Vohra and Dr. Ajay



Bahl were *not the recorded owners* of the subject land in the revenue records; and only Lt. Col. Harish Bahl's name was appearing therein as the recorded owner.

6. It is in the foregoing circumstances that the petitioner was constrained to approach this court by way of the present writ petition, assailing the refusal to issue an NoC under the 1972 Act; and also seeking a direction to respondent No.3 to register Sale Deed dated 26.10.2022 without insisting on such NoC, in view of the fact that acquisition proceedings in respect of the subject land stood quashed by a Division Bench of this court.

PETITIONER'S SUBMISSIONS

7. In the above backdrop, Mr. Yadav, learned senior counsel appearing for the petitioner submits as follows :
 - 7.1. That though, *vide* application dated 20.10.2022 the petitioner had applied for issuance of an NoC from the Revenue Department, Government of NCT of Delhi, that was done by reason of the run of events and the compulsions under which the revenue officials had placed him, though in law, there was no requirement to obtain an NoC since the subject land was free of acquisition;
 - 7.2. That admittedly, the name of Lt. Col. Harish Bahl was duly reflected in the revenue records as the owner of the subject land; and such record, read with the Surviving Member Certificate dated 01.07.2017 showing the names of his widow (second wife), daughter and son; and the subsequent Surviving



Member Certificate dated 19.09.2018 of the second wife, showing the names of the daughter and son, were sufficient to establish the credentials of the within-named Mrs. Anjali Vohra and Dr. Ajay Bahl as the owners of the subject land, and being entitled to sell that land to the petitioner.

- 7.3. That furthermore, status report dated 17.01.2023 obtained from the Land Acquisition Branch (South) also certified that the subject land was free from acquisition since Award No. 17/87-88 was quashed *vide* order dated 25.09.1989 made by a Division Bench of this court in C.W.P. 38/1988;
- 7.4. That from a plain reading of section 8 of the 1972 Act it is clear that permission to transfer land is required *only* when the land 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 Land Acquisition Act, 1894 that the land is required for a public purpose, *but not otherwise*;
- 7.5. That the petitioner's case is supported by the decisions of Co-ordinate Benches of this court in ***Manzoor-Ul-Haq Through his General Power of Attorney (sic) Holder Satish Kumar Aggarwal vs. Government of NCT of Delhi & Others¹*** and ***Dinesh Kumar Himatsingka & Anr. vs. Govt. of NCT of Delhi & Ors²***; and

¹ 2021 SCC OnLine Del 4874 at para 9

² 2017 SCC OnLine Del 10432 at para 9



7.6. That in *Manzoor-Ul-Haq* (supra), it has been expressly held that once the spectre of acquisition stands erased, there is no justification for the Registering Authority to not proceed further in accordance with law. It is also submitted that in *Dinesh Kumar Himatsingka* (supra), this court has held that once it is clear that a property is not subject matter of any declaration for acquisition, there would be no requirement for obtaining an NoC under the 1972 Act. Furthermore, it is pointed-out that in *Dinesh Kumar Himatsingka*, the court has also repelled the contention that since an order of the Sub-Registrar declining to register a document is an appealable order, this court would not interfere in such order under its extraordinary writ jurisdiction; observing that the Sub-Registrar was required to carry-out his functions within the confines of the statute, meaning thereby, that the High Court was entitled to interfere in writ proceedings if the Sub-Registrar omitted to do so. Attention has also been drawn to the judgments in *O.P.C. Jain vs. A.D.M. (LA) & Ors.*³; *Prem Pandhi vs. Union of India*⁴ and *Vijendera Singh vs. Lt. Governor*⁵, to submit that the consistent view of this court has been that the 1972 Act has no application when there is no notification for acquisition of land.

³ 1989 SCC OnLine Delhi 260

⁴ 1994 (4) AD (Delhi) 897

⁵ 1996 (5) AD (Delhi) 785



RESPONDENTS' SUBMISSIONS

8. On the other hand, opposing the reliefs prayed for in the petition, Mr. Manchanda, learned Additional Standing Counsel (Civil) appearing for the respondents has placed the following arguments :
- 8.1. That the petitioner was required to obtain an NoC from the LAC (South) in compliance of circular dated 04.02.2020 issued by the Divisional Commissioner of Revenue, Government of NCT of Delhi, only to find out whether the subject land has been acquired or is under acquisition, since the said circular mandates that such NoC be asked for before registering any transactions in order to verify the status of land/property with regard to ownership;
- 8.2. That by reason of several villages in Delhi having been urbanised under the provisions of section 507(a) DMC Act, it is necessary to verify the status of acquisition and ownership of lands, since some lands stood vested in the Gaon Sabhas even before urbanisation; and if the land is vacant and has vested in the Gaon Sabha or has been possessed by the Gaon Sabha under section 72 of the Delhi Land Reforms Act, 1954 ('DLR Act'), the Gaon Sabha has the right to admit any person as a lessee (*asami*) in such land under section 74 of that statute. It is submitted that as a result, even though possession of a parcel of land may be with private persons, the land may belong to the Gaon Sabha. It is argued that the said circular has therefore *broadened the ambit* of requiring an NoC *beyond what has been provided in section 8 of the 1972 Act*;



- 8.3. That the purpose of putting in place the requirement of an NoC is to prevent fraudulent transactions, to ensure that persons who are not recorded owners of lands do not sell them to unsuspecting buyers. It is submitted that the process of requiring an NoC was formulated as a measure of ‘due diligence’, to verify the contents of an application for registration of properties and to check encumbrances on properties, in order to protect the rights of buyers;
- 8.4. That in order to address the aforesaid issues, a two-tier process has been put in place, whereby *firstly*, a Tehsildar’s report is called-for, to ascertain the recorded owner of a parcel of land, particularly if the land is believed to belong to the Gaon Sabha; and *secondly*, the LAC’s report is called-for to ascertain if the land is under acquisition;
- 8.5. That the decision of the Supreme Court in ***Mohinder Singh (Dead) Through LRs & Anr vs. Narain Singh & Ors***⁶, has only considered the impact of urbanisation on proceedings under the DLR Act, to hold that upon urbanisation such proceedings will become *non-est* and lose any legal significance; however, in *Mohinder Singh* (supra) the Supreme Court has not held that the revenue authorities shall be relieved of their duties and responsibilities under other applicable laws or governmental policies;
- 8.6. That the decisions cited on behalf of the petitioner in *Manzoor-Ul-Haq* (supra), *Dinesh Kumar Himatsingka* (supra) and

⁶ 2023 SCC OnLine SC 261



O.P.C. Jain (supra), as also the other judgments cited on behalf of the petitioner are all distinguishable, principally on the ground that those cases arose under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, and therefore have no application to the facts of the present case;

- 8.7. That the petitioner has approached this court under its extraordinary jurisdiction without first availing his right of a statutory appeal under section 72 of the Registration Act, 1908 ('Registration Act'), which would lie before the Registrar of Assurances;
- 8.8. That in the present case, registration has been refused based on the report of the Tehsildar, who has observed *inter-alia* that the Death Certificate and Surviving Member Certificate of deceased Lt. Col. Harish Bahl (the recorded owner) *was not submitted* by the petitioner; and that the sellers Mrs. Anjali Vohra and Dr. Ajay Bahl were *not the recorded owners* of the subject land. It is clarified on behalf of the respondents that during the pendency of the proceedings however, the petitioner had sought to file the concerned Death Certificate and Surviving Member Certificate through WhatsApp but that they still did not upload the same on the online portal of the department. It is pointed-out that the said documents were filed before this court only by way of an additional affidavit dated 05.07.2023; and the respondents are willing to consider the petitioner's application afresh based on such documents.



DISCUSSION & CONCLUSIONS

9. At this point, a brief reference to the relevant statutory provisions and to the position of law as enunciated in some of the seminal judgments, would be in order :

Delhi Lands (Restrictions on Transfer) Act, 1972

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.

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.

(emphasis supplied)

Dinesh Kumar Himatsingka (supra) :

“4. Petitioner No.1 desirous of gifting the said property to petitioner No.2 - who is stated to be the nephew of petitioner no. 1 - executed a gift deed dated 14.9.2016 and also paid the stamp duty of ₹15,30,000/- and registration fee of ₹2,55,100/-.



“5. The petitioners' grievance is that the said gift deed is not being registered by respondent No.4 (Sub-Registrar) who is insisting on a No-Objection Certificate (NOC) under Section 8 of the Delhi Land (Restrictions on Transfer) Act, 1972.

“6. The learned counsel for the petitioner contends that there is no such requirement, as fresh acquisition proceedings have not been initiated in respect of the property.

“7. It is seen that the period of one year as granted by the Supreme Court for initiation of fresh acquisition proceedings has also now lapsed.

* * * * *

“9. It is at once clear that there would be no requirement for obtaining a NoC as the property is not the subject-matter of any declaration for acquisition.”

(emphasis supplied)

Manzoor-Ul-Haq (supra) :

*“9. From a reading of the aforesaid extract of the decision in Indore Development Authority it is evident that once the provisions of Section 24(2) of the 2013 come into play and are established to apply, it “obliterates” the steps that may have been taken under the 1894 Act. More fundamentally, as this Court reads the provisions of Sections 4 and 5 of the Delhi Land (Restrictions on Transfer) Act, 1972 it is clear that the injunctions embodied therein are to apply **provided** the land forming subject matter of the instrument is subject to acquisition. The apparent intent of those provisions is to restrain the transfer of property while it forms part of an acquisition and to not affect (sic, effect) registration of instruments executed in respect of property that may form part of an acquisition exercise. Here on the other hand and as the recordal of facts would undoubtedly establish, no proceedings for acquisition subsist and any proceedings that may have been initiated earlier would be deemed to have lapsed and resultantly stand effaced. **Once the specter of acquisition stands erased, there appears to be no justification for the Registering Authority to not proceed further in accordance***



***with law.** The fact that the acquisition proceedings no longer encumber the property or impede the right of the petitioner is indubitably established in light of the declaration entered by this Court on the judgment rendered inter partes.”*

(emphasis supplied)

O.P.C. Jain (supra) :

*“5. Mr. Rajinder Dutt, Counsel for the Respondents, points out that according to the present policy no status report/No Objection Certificate is sent to the Sub-Registrar, Delhi, where there is a “a scheme to acquire land so that the intending purchasers may not be defrauded or remain in dark”. **It is evident that if there is no notification issued under Section 4 or Section 6 of the Land Acquisition Act, then no permission or ‘No objection Certificate’ at all is required in the case of transfer/sale of land. Consequently, the provisions of Delhi Land (Restrictions on Transfer) Act, 1972, are not applicable to such land.** There is no other objection raised by the respondents with regard to registration of the said sale deeds.*

“6. Consequently, we issue a writ of mandamus directing respondent No.3 to register and release the five sale deeds, as mentioned in the writ petition, without insisting on any permission or ‘No objection Certificate’.”

(emphasis supplied)

10. Upon a conspectus of the statutory landscape, as summarized above; and based on the averments contained in the pleadings and the submissions made at the Bar, the following inferences logically arise :
 - 10.1. There is no dispute that Lt. Col. Harish Bahl was the recorded owner of the subject land;
 - 10.2. There is also no dispute that upon his demise on 15.08.2016, Lt. Col. Harish Bahl was survived by Dr. Swarn Kataria (his second wife), Mrs. Anjali Vohra (his daughter) and Dr. Ajay Bahl (his son). This is evidenced by Death Certificate dated



14.09.2016 and Surviving Member Certificate dated 01.07.2017;

- 10.3. There is also no dispute that upon the demise of Dr. Swarn Kataria on 23.12.2017, the only surviving members of the family of Lt. Col. Harish Bahl were his daughter Mrs. Anjali Vohra and his son Dr. Ajay Bahl. This stands verified by Death Certificate dated 03.01.2018 and Surviving Member Certificate dated 19.09.2018. It may be observed that the Death Certificates and Surviving Member Certificates have been issued by governmental authorities, including revenue authorities, which are respondents in the present proceedings;
- 10.4. What is also noteworthy is that though the Patwari's report dated 04.11.2022 (the date is ambiguous, since it is illegible) bears the remark that "*Sellers are Legal Heirs of Recorded owner, SMC certificate No. 9060000034616*", it goes on to further record that it would be *advisable* to obtain a report from the LAC (South) in relation to land acquisition. This report of the Patwari is also re-checked and counter-signed by the Kanungo. The screenshot of the report is placed below, for ease of reference :



ANNEXURE-P-11

Land Status Report of the Tehsil Haryal in respect of the in respect of the Village Khanpur
 ONLINE APPLICATION No. 90580000005936

NO.	ITEM	DETAILS & REMARKS
i	Name of the Applicant	Vinod Kumar Rajorice
ii	Property involved Khata Numbers (With area) and Name of Area/Village	Khata No. 242, Resumed Area (V-5) Sullagana - 2003-103
iii	Name(s) of recorded owner as per Revenue Records	श्री. विनोद कुमार राजोरिसे श्री. विनोद कुमार राजोरिसे 77 ब्रिडज खता नं. 242 ए.ए.ए.
iv	Whether the seller is recorded owner as per the revenue record. If NO, specify the document by which seller claimed owner ship	Legal heirs of Recorded owner, Given S.H.C Certificate No. 906000003416
v	Whether the applicant/seller is attorney holder. Specify the attorney. If YES then affidavit to the effect that assignments of the attorney are also attached.	Seller is L.R. of Recorded owner
vi	Self declaration and affidavit from the Applicant that land in question is free from all encumbrances and on legal activity is done in past or carried out in future	Yes/No Affidavit Attached (Seller)
vii	Classification of Land- Rural Village/Urbanized Village	Urbanized village
viii	Whether any violation of section 21 is pending - Yes/No	as above
ix	Whether any violation of section 74(a) DLIR Act, Yes/No	as above
x	Whether any violation of section 33 DLIR Act, Yes/No	as above
xi	Whether any court case/objection is pending against the shareholder of transferor - Yes/No	No; as per Record (Khanpur)
xii	Whether land is a Forest Land as per Forest list - Yes/No	as above
xiii	Remark, if any	As per as per, Khata No. (1992-99) Village Khanpur 906000003416

In absence of updation of Revenue record this report does not confirm:

- Present owner other than the revenue record.
- Possession of the land.
- Multiple sale/transfer of the land.
- Usage history of the land.

अभिज्ञान कराना के लिए LAC (S.H.C)
 में ला जायेगा और यह

In view of the above, report may be submitted to the LAC Br. (S) for onward submission to ADM (S) for appropriate decision alongwith copy of the land records (ROR).

[Signature]
 Pabari (S)

Report of Pabari rechecked and found as per details given above
 (If any variation same is as under)

Kanungo *[Signature]*

[Signature]
 Teshil (S)

(Detailed Report of H. Pabari & Kanungo is forwarded to NT(LAC) through online mode).

20 TC

Scanned with CamScanner



- 10.5. However, this notation made by the Patwari in relation to whether the land is under acquisition becomes irrelevant, since in status report dated 17.01.2023 issued by the Land Acquisition Branch it is specifically recorded that Award No. 17/87-88, by which the land comprised in Khasra No. 242 (2-8-10) in Village : Khanpur was sought to be acquired, has been quashed *vide* order dated 25.09.1989 made by a Division Bench of this court in CWP No. 38/1988 titled *Lt. Col. R.S. Kalra & Ors. vs. Administrator, Union Territory of Delhi & Ors.* Accordingly, the issue of the subject land being free of acquisition is also beyond any doubt.
- 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. On this point, a brief reference may also be made to the verdict of a Constitution Bench of the Supreme Court in ***CCE vs. Ratan Melting & Wire Industries***⁷, the relevant portion whereof reads as follows :

“7. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the court to declare what the particular provision of statute says and it is not for the executive. Looked at from another angle, a circular which is contrary to the statutory provisions has really no existence in law.”

(emphasis supplied)

Though the validity of circular dated 04.02.2020 has not been challenged in the present proceedings, this court is of the view that there can be no cavil with the proposition that the circular cannot create a *binding requirement* for production of

⁷ (2008) 13 SCC 1



an NoC, when section 8 of the 1972 Act, as interpreted in the decisions of this court, does not mandate such requirement.

10.8. To reiterate, only two aspects were required to be considered :

- i. Whether the sellers viz., Mrs. Anjali Vohra and Dr. Ajay Bahl were the surviving members of the recorded owner of the subject land; and
- ii. Whether the subject land was free from any acquisition proceedings.

The first point was answered by Land Status Report dated 04.11.2022 issued by the Patwari and verified by the Kanungo, which recorded that the sellers were the legal heirs of the recorded owner in view of the Surviving Member Certificate dated 19.09.2018 issued to them. The second point was answered by Status Report dated 17.01.2023 issued by the Land Acquisition Branch, which confirmed that the subject land was free of acquisition since Award No. 17/87-88 for acquisition of that land was quashed *vide* order dated 25.09.1989 made in CWP No. 38/1988.

11. As a sequitur to the foregoing discussion, this court is persuaded to allow the prayers in the writ petition, thereby quashing the decision of the Sub-Registrar of Assurances to decline registration of Sale Deed dated 26.10.2022 presented by the petitioner/Mr. Vinod Kumar Rajoria (as buyer) and Mrs. Anjali Vohra and Dr. Ajay Bahl (as sellers); and directing that such sale deed be registered within 01 week of re-presentment, without demur.
12. 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.

13. The petition is allowed and disposed-of in the above terms.
14. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 04, 2023

uj/ds