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

Date of Decision: 02.08.2023

+ CONT.CAS(C) 330/2018 & CM APPL. 19163/2018, CM APPL. 42718/2019

PRAKASH CHAND SHARMA & ORS Petitioner
Through: Mr. V Mehta, Ms. Aditi Nair, Adv.

versus

UDAI PRATAP SINGH & ORS Respondent
Through: Mr. Sanjay Kumar Pathak, SC with
Mr. KK Koumodi Kiran, Mr. MS Akhtar, Ms. RV
Tigga, Ms. Nidhi Thakur, Mr. SK Jha, Adv.
Mr. Sameer Vashisht, ASC with Mr. Aman Singh
Bhadoria, Adv.
Mr. Sanjay Kr. Pathak, SC with Mr. SK Jha, Ms.
Nidhi Thawar, Ms. RV Tigga, Adv.
Ms. Manika Tripathy, SC with Mr. Ashutosh
Kaushik, Adv.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH
J U D G M E N T

JASMEET SINGH, J (ORAL)

1. This is a petition seeking initiation of contempt proceedings for violation of the order 25.02.2010 passed in WP(C) 2790-2795 of 2006 and also to restrain contemnors from taking or initiating any coercive action of demolition or dispossession of the petitioners from their land i.e. Khasra No.37/12 (3-11) and 37/13/1 (1-16) situated in Revenue Estate of Village Bamnoli, Tehsil Vasant Vihar, New Delhi.
2. As per the order dated 25.02.2010, the Division Bench directed as under:-



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We direct that in case such an application is filed, a decision be taken on the said application and till such decision is taken no coercive process would be taken to dispossess the petitioners. The petitioners shall maintain status quo as to the nature, title, possession and construction as per photographs already filed. In case of an adverse decision no precipitative action would be taken for a period of fifteen (15) days after the receipt of rejection by the petitioners. However, in case the petitioners do not file any application within the stipulated time they would not be entitled to the benefit of this order.”

3. Thereupon the petitioners made a representation on 08.03.2010. On account of promulgation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the petitioners filed a fresh writ petition being WP(C) 5811/2014 seeking benefit under Section 24(2) of the said Act.
4. The writ petition was allowed by the Division Bench *vide* order dated 03.11.2014 and the acquisition proceedings were deemed to have lapsed.
5. The respondent challenged the said order in SLP and *vide* order dated 16.02.2018, the SLPs were allowed and the judgment of the High Court was set aside. The Hon’ble Supreme Court was also pleased to dismiss the writ petitions filed by the respondent owners before the High Court.



Thereafter the possession was taken by the respondent on 04.05.2018. Thereupon the present contempt petition has been filed.

6. It is stated by Mr. Mehta, learned counsel for the petitioners that in the present case, the order dated 25.02.2010 was categorical and directed the respondents to first decide the objection under Section 48 of the petitioner and till the said time, no coercive steps were to be taken by the respondent. The objections were not decided and the *status quo* with regard to possession was not maintained.
7. He states that the respondents have, till date, not decided the representation and despite that have taken possession on 04.05.2018.
8. Mr. Mehta, learned counsel has also relied upon the judgment of “*Delhi Development Authority vs. Ashok Solomon and Ors.*” in Civil Appeal No. 3565 of 2023 and orders passed in “*Indore Development Authority vs. Manoharlal and Ors. Etc.*” to urge that the taking of proceedings under Right to Fair Compensation is no bar to the rights accrued in favour of the petitioner under the Land Acquisition Act, 1894.
9. *Per contra* the learned counsel for the respondents state that once the petitioners have moved under the Right to Fair Compensation, they have given up their rights under the Land Acquisition Act, 1894, and once those writ petitions have been dismissed, the contempt petition will not lie.
10. I have heard learned counsel for the parties.
11. I am of the view that once the petitioners moved the High Court under the Right to Fair Compensation, they have by their conduct, deemed to have waived the earlier order dated 25.02.2010.



12. The order of 25.02.2010 has merged in the order dated 03.11.2014 and 16.02.2018 of the Hon'ble Supreme Court, wherein, the Hon'ble Supreme Court allowed the SLP and dismissed the writ petition of the respondent owners pending in the High Court.
13. The Hon'ble Supreme Court even in the order dated 16.02.2018 did not reserve the rights of the petitioners contained in the order dated 25.02.2010.
14. In the case of "***Gojer Bros. (P) Ltd. v. Ratan Lal Singh***", (1974) 2 SCC 453, the Hon'ble Supreme Court has held as under:-

"11. The juristic justification of the doctrine of merger may be sought in the principle that there cannot be, at one and the same time, more than one operative order governing the same subject-matter. Therefore the judgment of an inferior court, if subjected to an examination by the superior court, ceases to have existence in the eye of law and is treated as being superseded by the judgment of the superior court. In other words, the judgment of the inferior court loses its identity by its merger with the judgment of the superior court."

15. The judgment of "*Delhi Development Authority vs. Ashok Solomon and Ors.*" as well as "*Indore Development Authority vs. Manoharlal and Ors. Etc.*" are distinguishable as in those cases where the acquisition was challenged before the High Court.
16. In the present case, on 16.12.2018, the acquisition proceedings have been upheld by the Hon'ble Supreme Court.



17. Therefore, it cannot be said that the respondents are guilty of any intentional and *mala fide* violation of the order dated 25.02.2010.
18. For the said reasons, the contempt petition is dismissed. However, the petitioners are free to avail any / all legal rights including filing of the writ petition in accordance with law.

JASMEET SINGH, J

AUGUST 2, 2023 / (MS)

Click here to check corrigendum, if any