



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

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Judgment reserved on: 07 December 2023
Judgment pronounced on: 09 February 2024

+ LPA 30/2018, CM APPL. 2676/2018 (Interim Direction)

AIRPORTS AUTHORITY OF INDIA Appellant

Through: Mr. Digvijay Rai and Mr.
Archit Mishra, Advs.

versus

JAI KUMAR & ORS Respondents

Through: Mr. Ravinder Kumar Yadav, Mr.
Vinay Mohan Sharma, Ms. Arti
Anupriya and Mr. Paras Juneja,
Advs. for R-1 to 3.
Mr. Sanjay Kumar Pathak, SC
with Ms. K. Kaomudi Kiran
Pathak, Mr. Sunil Kumar Jha,
Mr. M.S. Akhtar & Ms. Rini V.
Tigga, Advs for R-5 & 6.
Ms. Shobhana Takiar, Standing
Counsel along with Mr. Kuljeet
Singh, Adv for DDA.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

YASHWANT VARMA, J.

1. The **Airport Authority of India**¹ has instituted the present **Letters Patent Appeal**² aggrieved by the judgment dated 19 December 2017 rendered by the learned Single Judge allowing the writ petition preferred by the respondent nos. 1, 2 and 3 and framing directions for allotment of an alternative plot admeasuring 100 sq. meters in Village

¹ AAI

² LPA



Rangpuri to the legal heirs of the Late Shri Arjun Singh. While passing the aforesaid order, the learned Judge has called upon the respondents to place for the consideration of the concerned authorities necessary documentation to establish that Late Smt. Chandrawati was the sole legal heir of the Late Shri Arjun Singh, as well as material which would establish that the respondents could legitimately claim to be her legal heirs.

2. The respondents herein claim to be the heirs of the Late Smt. Chandrawati, who was the daughter of the Late Shri Arjun Singh, the original landholder. Late Shri Arjun Singh is stated to have passed away on 15 March 1990. His daughter, Smt. Chandrawati, died on or about 24 June 2000.

3. The prayer for allotment of an alternative plot owes its genesis to an acquisition exercise which commenced upon the issuance of a notification under Section 4 of the **Land Acquisition Act, 1894**³ on 28 April 1972 and pertaining to *abadi* land falling in Village Nangal Dewat. The notification under Section 4 of the Act was followed by notifications under Sections 6, 9 and 10 of the Act. The aforesaid notifications under Sections 4 and 6 of the Act came to be assailed by way of a writ petition in W.P.(C) 481/1982 titled '*Daryao Singh & Ors. vs. Union of India*'. In the absence of any interim order operating upon that writ petition, an Award came to be rendered on 14 August 1986. Taking note of the aforesaid development, the Court on 18 September 1986 stayed the implementation of the Award in order to enable the Union Government to take the decision, in the meanwhile, with respect to resettlement of the villagers of Nangal Dewat.

³ Act



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4. On 02 August 2001, when the matter was taken up for consideration, the Court took note of the statement made on behalf of the petitioners therein that they were confining their relief to rehabilitation at an alternative place. The petitioners thus appear to have given up the challenge to the acquisition and confined their prayers to the allotment of an alternative piece of land. Taking note of the aforesaid stand as struck, W.P.(C) 481/1982 came to be dismissed along with all other pending applications made by persons whose land had been allegedly acquired under the original Sections 4 and 6 of the Act notifications.

5. While closing the proceedings on the writ petition, the Court also took on board the statement made on behalf of the respondents therein that a scheme for allotment of alternative plots is being formulated and that all persons whose names appear in the Award would be awarded land in terms of the scheme within six months.

6. The controversy, however, does not appear to have come to a rest since numerous miscellaneous applications came to be made in the disposed of writ petition. Taking cognizance of the various claims for allotment of alternative plots which were being continually raised, the Court by its order of 29 October 2003 directed the competent authorities to draw up a complete list of persons along with the area of land possessed by them as on the date of the issuance of the Section 4 notification. A direction was further framed for the Tehsildar of the concerned area to dispose of all mutation applications that may be received in this respect.

7. Pursuant to the directions so framed, the **Land Acquisition**



Collector⁴ filed a list of eligible persons before the Court on 14 January 2004. The list submitted indicated plots of land aggregating 631 sq. yards liable to be allotted in the name of Late Shri Raghunath (the brother of Late Shri Arjun Singh) and Late Shri Arjun Singh.

8. Subsequently and since the filing of miscellaneous applications continued unabated, this Court, on 28 April 2004 appointed the concerned ADM, Mr. S.S. Kanawat, to act as the Nodal Officer and charged him with the task of preparing a comprehensive list of eligible candidates for allotment of alternative plots. The aforesaid order is extracted hereinbelow: -

“RA No 9312/2001 in WP (C) 481/1982

Despite the lapse of three months practically there is no progress in the matter. Learned counsel for the Govt of NCT of Delhi states that the LAC was busy with the election duty. In my considered view, this is no excuse since election duty arose in April 2004. Learned counsel for Airport Authority of India states that the said authority has carried out some exercise to find out the eligibility of different persons in different categories. In my considered view, the matter in controversy needs to be coordinated by a senior officer to be assisted by the different parties. Mr. S.S. Kanawat, ADM, is appointed as the Nodal Officer for the said purpose. The Airport Authority of India will give the relevant data to him and he will prepare a list of the eligible candidates after considering the objections of the different parties. If there is an issue of eligibility of a particular category of persons, the list should be prepared and the eligibility of that category will be considered by the Court. Leave and liberty is granted to various parties to approach the said officer and it is not necessary to file applications before this Court for impleadment and intervention. It is only in case the issue will arise of a particular category, then the learned counsel can be heard on the issue of eligibility of that category. In so far as the issue of mutation in favour of the legal heirs is concerned, Mr. V.K. Grover, Tehsildar of the area is present in person and states that the process is on but some of the parties have not given documents in support of their case. Leave and liberty are granted to parties to file the necessary documents within 15 days from today with the Tehsildar failing which no further opportunity shall be granted to the parties and the Tehsildar will decide the issue on the basis of the documents on record. The Tehsildar to also assist the Nodal Officer for determination of the eligibility. The Nodal Officer will also consider the

⁴ LAC



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requests of the persons who claim that their names have been mistakenly missed out from the list. The Nodal Officer is empowered to take decision in respect of issues arising for drawing up the list.

The Nodal officer with the relevant records and lists should remain personally present in Court. List on 26.8.2004.

CM Nos 4486, 7748/2002 9486-9487,11072, 11167,11203, 11224, 13372,13373/2003, 1728,4883 to 4888, 4974-4975/2004

These are applications for interventions, impleadment and objections of various parties. In my considered view, the present proceedings are not the appropriate proceedings to get them either impleaded or decide these issues specially when now the Nodal Officer has been appointed as aforesaid. All the aggrieved parties as directed above will approach the Nodal Officer and on the issue of eligibility of category, the matter can be put before the Court and learned counsel will be heard at that stage. Any request to be made to the Nodal Officer, be so made within 30 days from today. Applications stand disposed of.

Dasti to learned counsel for the parties.”

9. On 08 December 2004, the Nodal Officer disposed of an application made by the sons and grandsons of Late Shri Raghunath claiming that the land comprised in Khasra no. 1243 had been incorrectly recorded as being held equally by Late Shri Raghunath and Late Shri Arjun Singh. The aforesaid application appears to have been made on the basis of a gift deed dated 24 June 1950. Accepting their application, the Nodal Officer passed an order providing that the land admeasuring 380 sq. yards comprised in Khasra no. 1243 would stand recorded in the name of Late Shri Raghunath.

10. A consolidated list of eligible persons entitled for allotment of rehabilitation plot numbering 316 came to be thereafter published by the Nodal Officer on 16 December 2004. The names of Late Shri Arjun Singh and Late Shri Raghunath were reflected at serial nos. 144 and 145 of the said list. The aforesaid list was also forwarded to the appellant for taking further action. The allocation of land in the name of Late Shri Raghunath and Late Shri Arjun Singh ultimately appears to have been settled with the appellant here, in terms of its communication



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of 05 October 2005 apprising the **Delhi Development Authority**⁵ that the name of Late Shri Raghunath be read at serial no. 142 in place of Late Shri Arjun Singh. The appellant appears to have taken the aforesaid position since according to it, Late Shri Arjun Singh had died issueless and thus, even if his holding were merged with that of his brother, the entitlement of an alternative plot would remain unaffected.

11. Some time, in the year 2007, the possession of the land parcels in question were taken over and alternative plots were allotted to eligible persons. Since repeated claims continued to be filed before this Court, a learned Judge exhaustively examined all issues arising out of acquisition of land in Village Nangal Dewat in **Airports Authority of India vs. Karan Singh**⁶. The aforesaid decision which came to be rendered on 30 May 2007 carried the following salient observations: -

“24. The preliminary objection to the maintainability of these petitions need not detain their consideration on merits for the simple reason that this Court has in the order dated 18.5.2005 permitted the claimants whose claims were rejected by the Nodal Officer to “seek substantive relief in the appropriate proceedings and not by way of CMs in this disposed of writ petition”. In effect, this Court did not say that the claimants could not file writ petitions here. On the other hand, if the claimants were relegated to the Civil Court, it might interminably delay the resolution of the dispute and prolong their wait for rehabilitation where it is due to them. Any delay in the settling of the claims would not be in the interests of the respondents either.

25. This is also the reason why a remand to the Nodal Officer where the order under challenge warrants interference has not been thought to be expedient. Already matters have been remanded to the Nodal Officer twice. Therefore, this Court proposes to decide the merits of these petitions by examining the records itself.

26. This Court also finds it necessary to clarify that no further petitions challenging the orders of the Nodal Officer or by persons

⁵ DDA

⁶ 2007 SCC OnLine Del 860



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who never filed their claims before the Nodal Officer should hereafter be entertained either by this Court or by the Civil Court. This is because all these claimants belong to the same village Nangal Devat and the litigation has been on since 1982. It is inconceivable that any resident of the village would have been unaware of the pendency of these proceedings and the claims filed by the residents of that village. A reference has already been made to the time limits set by this Court for the Nodal Officer to entertain claims and how this Court has stated in no unclear terms that no further claims beyond the time set in the order dated 26.8.2004 would be entertained. Even thereafter in some individual cases, this Court had permitted some claims to be filed before the Nodal Officer. However, all claims must come to an end at some stage and the time limit cannot be open ended to enable the 'fence sitters' to take a chance after watching the outcome of these petitions. The Court does not wish to encourage this. This should allay the apprehension that if the Court interferes with some of the orders of the Nodal Officer under challenge here, others similarly situated who have not approached the Court may want similar relief. It is made clear that the relief being granted in some of the petitions by this order is confined to the petitions covered by this order and would not result in reopening the claims of those who have not challenged the order of the Nodal Officer till date.

27. The Court expects that the Civil Courts would also adopt the same approach. For this very reason, the Court is of the view that in the cases where the Civil Court has passed interim orders directing a re-survey, the suits ought not to have been entertained in the first place. That however will be dealt with at the time of passing separate orders in those revision petitions."

12. Upon a due examination of the various contentions which were addressed and raised, the Court summarized its conclusions as follows:-

"45. Before dealing with the individual cases, the summary of the conclusions arrived at in the discussion thus far may be recounted:

(i) The order dated 18.5.2005 of this Court permits the claimants to approach this Court if the claims are rejected by the Nodal Officer. This Court finds this to be the more expedient course to follow than relegating the claimants to the Civil Court which might delay the resolution of the dispute.

(ii) Given the history of this case, the Court also does not propose to remand the matters to the Nodal Officer where the order passed calls for interference. It proposes to examine the very materials before the Nodal Officer to determine if the decision was justified.

(iii) However, all claims must come to an end at some stage and the time limit cannot be open ended to enable the 'fence sitters' to take a



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chance after watching the outcome of these petitions. The Court does not wish to encourage this. It is made clear that the relief being granted in some of the petitions by this order is confined to the petitions covered by this order and would not result in reopening the claims of those who have not challenged the order of the Nodal Officer till date.

(iv) It was impermissible for the Nodal Officer to take upon himself the task of devising a criterion for allotment to members of the same family. This Court's guidelines already provided an answer to that situation, particularly in Clauses 1 and 2.

(v) In every claim, the Nodal Officer was expected to decide whether the claimant was eligible allotment of alternative land on the basis of the criteria already devised and approved by this Court in its order dated 18.5.2005. The only leeway given to the Nodal in the Explanatory Note appended to the Guidelines was that he could correct any errors, omissions or make additions to the three documents viz., the Survey Report, the Revenue Record or the Naksha Muntazamin "in accordance with law."

(vi) Given the litigational history of these cases involving village Nangal Devat, the Civil Courts ought not to have entertained suits filed by persons who never filed a claim before the Nodal Officer. Even in those cases where the Nodal Officer had passed an order, the appropriate Forum to challenge such Order would, given the background, be this Court and not the Civil Court.

(vii) The issue of rehabilitation also would remain outside the purview of the jurisdiction of the Civil Court. This conclusion is also informed by the objective of this Court's orders in devising an alternative dispute resolution mechanism in the form of the Nodal Officer to ensure efficient and efficacious disposal of the claims."

13. Of equal significance are the observations which appear in Paras 67.3 and 67.4 and which are extracted hereinbelow: -

“67.3. In the other Writ Petition (C) No. 4113/2007 Mr. Kunwar Udai Bhan learned Counsel has sought to urge that it would be unfair to deny relief to the petitioners when certain others whose claims have been disposed of by the very same impugned common order are being granted relief by this Court. No attempt has been made to show why these petitioners could not approach the Court earlier.

67.4. This Court does not consider it necessary to repeat the reasons explained in para 26 of this judgment for not entertaining these petitions. These petitioners have been residing in Nangal Devat for many years now. It is a fairly densely populated village in a small area. The notification under Section 4 of the L.A. Act was issued in



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1972. The Award was made in 1986. Till August 2001 the petitions challenging the acquisition were pending in Court. Thereafter numerous petitions and applications have been filed by the residents of Nangal Devat which have been heard and disposed of by this Court. On several dates time for making claims before the Nodal Officer were extended. Thereafter the present round of litigation, challenging the orders of the Nodal Officer, most of which were made in November 2006, have been heard from December 2006 onwards. In these circumstances, it is impossible to believe that the petitioners were not aware of the pendency of these cases. The Court is not prepared therefore to entertain these petitions, coming as they do, at the very last stage. Throughout the hearing of these petitions also, the Court made it clear that it is not going to entertain further petitions challenging the orders of the Nodal Officer. This approach was considered necessary keeping in view the time bound directions of this Court made earlier.”

14. The respondents asserted that they did not receive any intimation with respect to allotment of alternative plots either from the DDA or the appellant herein. They consequently appear to have invoked the provisions of the Right to Information Act, 2005 sometime in 2010 seeking details of allotment made in lieu of land held by the Late Shri Arjun Singh. Not being satisfied with the inaction of the appellant and DDA, they approached this Court by way of W.P.(C) No.7174/2011 challenging the order dated 08 December 2004 of the Nodal Officer in terms of which a merger of the plots standing individually in the name of the Late Shri Raghunath and Late Shri Arjun Singh had been directed. The aforesaid writ petition however came to be withdrawn vide order dated 27 September 2011 with the respondents craving liberty to approach the respondents and if aggrieved even thereafter to take “*a proper remedy*”.

15. Pursuant to the aforesaid, they are stated to have made a representation on 30 September 2011 for allotment of an alternative plot. The aforesaid representation is stated to have been forwarded by the appellant to the Nodal Officer who ultimately, by an order of 26



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November 2012, rejected the same on the ground of inordinate delay.

16. It becomes pertinent to note that the issue of a right to claim an alternative plot in lieu of acquisition in the meanwhile appears to have been referred for the consideration of a Full Bench of this Court in **Ramanand vs. Union of India & Ors**⁷. The Full Bench principally held that no landholder can claim an indefeasible right to be allotted an alternative plot and that such an application, if made, can only be for *consideration* in accordance with any scheme that may prevail.

17. A claim identical to that raised by the respondents herein and again pertaining to Village Nangal Dewat fell for consideration of a Division Bench of the Court in the **Diwan Singh vs. Govt. of NCT of Delhi**⁸. The Division Bench, while noticing the history surrounding the acquisition exercise of Village Nangal Dewat, observed as follows: -

“2. A large tract of land was sought to be acquired in Village Nangal Dewat for purposes of expansion of the Airport consisting of 287 bighas and 9 biswas of land where abadi was located. It may be mentioned that there were certain other agricultural areas also acquired for which compensation has been paid and which does not form subject matter of the dispute. Some of the owners of the structures in land in the abadi areas challenged the acquisition proceedings. The Airport Authority of India (AAI in short) in its wisdom decided to settle the matter with the persons in the abadi area by making a special scheme for them of allotment of developed land in Rangpuri. This is stated by the counsel for the LAC to be a total area of 302 bighas. This settlement is recorded in the order dated 02.08.2001 in Civil Writ No. 481/1982. The area was developed and plots have been handed over in Rangpuri and the land in village Nangal Dewat stands taken over by the AAI.

3. There was some delay in development of the land at Rangpuri and the occupants of the abadi did not want to shift until sufficient time was available with them to construct on their Rangpuri property as they would have to shift their houses. The question of extension of time came to be raised in a writ petition filed before this Court and

⁷ AIR 1994 Delhi 29

⁸ 2010 SCC OnLine Del 4428



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even appeals filed thereafter. Orders were passed in LPA No. 441/2007 and connected matters on 10.07.2007 in this behalf whereby the rights of both the parties were balanced and directions were passed with regard to the period of completion of construction on plot and shifting of the abadi people. In the said order categorical observations were made to the effect that these abadi people are entitled to receive compensation in lieu of their land in terms of provisions of the Land Acquisition Act, 1894 ('the said Act' for short) in addition to the alternative plots being provided at Rangpuri.

4. The stand of the respondents is that the amount of compensation for acquisition of the land in village Nangal Dewat was deposited with the LAC before settlement took place on giving alternative plots and the settlement envisages the grant of alternative plots in lieu of compensation. In a nutshell, the submission is that the abadi occupants cannot get both the plots and the compensation as developed plots free of cost are being handed over and the area earmarked for the abadi people is almost the same as the total area from where they were displaced. In this behalf a reference has been made to the provisions of Section 31(3) of the said Act, which reads as under:—

“31. Payment of compensation or deposit of same in Court.-

(1).....

(2).....

(3) Notwithstanding anything in this section the Collector may, with the sanction of the [appropriate Government] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.”

18. It also took note of the question which had cropped up and pertained to whether occupants of *abadi* which may have been acquired would be additionally entitled to compensation. The aforesaid question came to be answered as follows: -

“5. In view of the aforesaid situation, a Division Bench of this Court on 10.02.2010 considered it appropriate to make a reference to the larger Bench of this Court on the important question of law as to whether the occupants of the abadi are entitled to compensation in addition to the plots made over to them free of costs keeping in mind the provisions of Section 31(3) of the said Act. The Bench noted that a co-ordinate Bench of this Court referred to aforesaid had made the



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observations in view of the context of extension of time for leaving out the abadi people, but in order to settle the controversy, the matter was referred to a larger Bench.

6. The aforesaid reference has been answered by the Full Bench of this Court presided over by the Hon'ble Chief Justice in terms of the order dated 18.11.2010 where it has been categorically held that the observations made in LPA No. 441/2007 were on the facts of that case and does not state the law that a person whose land is acquired is entitled to an alternative accommodation or site as a matter of right under the said Act. The same would depend upon the language employed under any Rule or Scheme if framed by the State Government. We may once again, emphasize that it was already noted in the order dated 10.02.2010 that the scheme of the AAI is not to be mixed with the scheme of the DDA for allotment of the alternative plots on large scale acquisition of land as that scheme has own terms and conditions where plots of small size are allotted for consideration as an additional measure of amelioration of the problem arising from acquisition of land. Not only that, the same is applicable only to land acquired for the planned development of Delhi by DDA. Further, the right is only of consideration of such an application as per a Full Bench judgment in *Ramanand v. Union of India*, AIR 1994 Delhi 29.

7. We may also notice that the cheque for compensation was brought by the LAC in the Court and was directed to be deposited in the name of the Registrar and to be kept in an FDR for a period of one year to be kept renewed until contrary directions are issued.”

19. Dealing with the scheme of rehabilitation framed by AAI itself and pertaining to Village Nangal Dewat, the Division Bench held as under: -

“8. In our considered view, the scheme framed by AAI was with the objective of expediting the public project of the establishment of the airport and in view of the obstruction caused by the respondents rather than getting into a prolonged litigation, the AAI in its wisdom decided to rehabilitate the villagers on a land of their choice free of costs giving them almost similar areas as was occupied by them in their earlier place. This was also in terms of the mandate of Section 31(3) of the said Act which permits the same in lieu of compensation.

9. We may also notice that even under the Scheme of the DDA for allotment of alternative plots on large scale acquisition of lands, the plots are not allotted necessarily co-relatable to the size of the land acquired and further the persons who are allotted such plots have to pay for such alternative plots albeit at concessional rates. Even in



this respect, the Full Bench of this Court in *Ramanand's case* (supra) has held that it is not a matter of right.

10. In the present case, the rehabilitation has taken place in an area approximate to the original area of occupation. Thus money has been spent for making that land available, for the development of that land and, in fact, the occupants of the village which was being acquired were not even willing to shift till full development takes place. It cannot thus be said that a scheme envisages both rehabilitation to the villagers and compensation. It is an either/or situation. The petitioner having already taken a decision to occupy the land was not entitled to compensation.”

The judgment rendered in *Diwan Singh* has since then attained finality consequent to the dismissal of the Special Leave Petition by the Supreme Court on 01 July 2013.

20. We note at the very outset that the learned Single Judge has while passing the impugned judgment clearly failed to advert to the principles laid down in *Diwan Singh*. More importantly, the judgment fails to either advert to or notice the bar which stood created in *Karan Singh*. It becomes pertinent to note that *Karan Singh* had in unequivocal terms provided that no further claims or writ petitions would be entertained. The respondents chose to approach this Court only in 2012, even though all proceedings for settlement and rehabilitation had been rendered a quietus in terms of the judgment rendered in *Karan Singh* as far back as in 2007. It is in the aforesaid backdrop that we find ourselves unable to sustain the impugned judgment.

21. In our considered opinion, once this Court in *Karan Singh*, had wrung the curtains down and directed that no further suits or writ petitions would be entertained, the claim as raised by the respondents was not even liable to be entertained. *Karan Singh* in that sense rendered a quietus to all aspects pertaining to resettlement and



rehabilitation as applicable to the residents of Village Nangal Dewat.

22. The learned Single Judge also appears to have failed to consider that the order dated 08 December 2004 had itself come to be challenged by the respondents for the first time in 2011 by way of W.P.(C) No.7174/2011. That writ petition was withdrawn and the only liberty which stood reserved was for the petitioner to take a proper remedy. The aforesaid facts constitute glaring evidence of indolence and laches.

23. The appellants have also asserted that the Late Shri Arjun Singh had expired as far back as on 15 March 1990, and that his alleged daughter, Smt. Chandrawati, had herself got married, moved to Sonipat, Haryana and died there on 24 June 2000. It was in the aforesaid context that Mr. Rai had submitted that Smt. Chandrawati in that sense was not even impacted by the acquisition.

24. All of the aforesaid facts, when considered in totality, would have merited the writ petition being dismissed on the ground of evident and inordinate laches. In our considered opinion, there was no justification to entertain the writ petition preferred at such a belated stage. While the learned Judge has observed that the claim for alternative land was not under any welfare scheme, but essentially a substitute to the right to receive compensation for acquisition of property, the said observation fails to bear in consideration the undisputed position that the Late Shri Arjun Singh does not appear to have taken any tangible steps for affirmation and recognition of his rights during his lifetime. The daughter, as noticed above, is stated to have married and moved to the State of Haryana. Of equal significance was the restraint placed in terms of the judgement in *Karan Singh*. The



claim of the respondents was thus liable to be negated on the aforesaid grounds alone. We thus find ourselves unable to sustain the direction ultimately framed by the learned Single Judge and comprised in paragraph 21 of the impugned judgment.

25. We accordingly allow the instant appeal and set aside the judgment and order dated 19 December 2017. The writ petition in consequence shall also stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

FEBRUARY 09, 2024/neha