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

+ **W.P.(C) 14985/2024 & CM APPL. 62813/2024**

M/S G.R. ESTATES PRIVATE LIMITEDPetitioner

Through: Mr. Sanjoy Gosh, Sr. Adv , Mr. Talha Abdul Rahman, Mr. Shaz Khan , Mr. Rafid Akhter, Mr. Faizun Ahmed & Mr. Mohit Garg, Advs. (M: 7869375111)

versus

DELHI DEVELOPMENT AUTHORITY & ORSRespondents

Through: Mr. Sanjay Kumar Pathak, SC with Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Mr. Sami Sameer, Advs. for R-2 & 3.
Ms. Gauri Goburdhun, Sr. Panel Counsel for R-8.

5. And

+ **W.P.(C) 14987/2024 & CM APPL. 62817/2024**

M/S SHRISHTY IMPEX PRIVATE LIMITEDPetitioner

Through: Mr. Madhav Khurana, Ms. Roopa Dayal, Mr. Shubham Jindal, Ms. Sanjivani and Mr. Goti Khaitan, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.....Respondents

Through: Mr. Sanjay Kumar Pathak, SC with Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Mr. Sami Sameer, Advs. for R-2 & 3.
Mr. Nitin Mishra, Advocate for DDA.
Mr. Arjun Mahajan, Mr. Apporv, Ms. Neha and Ms. Jahanvi, Advocates for R-1/DDA.
Mr. Sanjoy Gosh, Sr. Adv , Mr. Talha Abdul Rahman, Mr. Shaz Khan , Mr.



Rafid Akhter, Mr. Faizun Ahmed &
Mr. Mohit Garg, Advs. (M:
7869375111)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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06.12.2024

1. This hearing has been done through hybrid mode.
2. The present petitions have been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for a declaration that the alleged possession proceedings of the land in question is illegal and null and void.
3. The brief background of this case is that the Section 4 notification under the Land Acquisition Act, 1894, (hereinafter "*the Act*") was issued in June of 1995 for acquisition of 3284 Bighas of land in Village Rangpuri, Delhi. Thereafter, a fresh notification under Sections 4 and 17 of the Act was issued for acquiring various passes of land including 369 Bighas and 1 biswa in village Rangpuri on 27th June, 1996. Possession proceedings were commenced in respect of the said land and in the meantime, the Petitioner had approached this Court in ***W.P.(C) 3697/1999*** and *vide* interim order dated 16th June 1999, the Court had granted stay on dispossession of the Petitioner from the subject land.
4. Thereafter, the ***Award No.7/98-99/SW*** was passed on 26th June, 1999, in respect of the subject land. The acquisition proceedings and the said Award were also challenged by the Petitioner. *Vide* order dated 16th May, 2008, the Court dismissed ***W.P.(C) 3697/1999*** and the Petitioner is stated to have assailed the said order before the Supreme Court in ***SLP (Civil) No***



15122/2008. In respect of the said land, status quo as regards possession by the Petitioners was also directed by the Supreme Court in **SLP (Civil) No 15122/2008** vide order dated 10th July 2008.

5. Finally, vide the judgment dated 12th January, 2015, passed by the Supreme Court, the acquisition proceedings were itself quashed in respect of the subject land. The said order of the Supreme Court is set out below:-

“Heard learned counsel for the parties.

Despite granting sufficient and adequate opportunity to the respondents, they did not choose to file objections with regard to the averments made by the applicants/appellants in their applications that they have been in physical and actual possession of the acquired land and compensation also not paid to them. Since the above averments of the applicants are not controverted despite granting opportunity, the assertions made by the applicants shall have to be accepted as true and correct. Further, the right of the applicants is accrued under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for short 'the Act', on the date of filing of the applications as they have asserted that they have been in physical and actual possession of the acquired land and also not paid the compensation by the respondents in respect of their acquired land. Therefore, the contention urged on behalf of the respondents that in view of promulgation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 on 31.12.2014, by inserting the proviso to sub-section (2) of Section 24 of the Act, the period of stay obtained in the judicial proceedings shall be excluded for computation of five years' period to hold that the acquisition proceedings are lapsed and, therefore, the said provision does not enure to the benefit of the applicants, cannot be legally accepted by us in view of the law laid down by this Court in the case of Garikapati v. Subbiah Choudhry, AIR 1957 SC 540. Para 23, which is relevant is reproduced hereunder:



“From the decisions cited above the following principles clearly emerge:

(i) That the legal pursuit of a remedy, suit, appeal and second appeal are really but steps in a series of proceedings all connected by an intrinsic unity and are to be regarded as one legal proceeding.

ii) The right of appeal is not a mere matter of procedure but is a substantive right.

(iii) The institution of the suit carries with it the implication that all rights of appeal then in force are preserved to the parties thereto till the rest of the career of the suit.

(iv) The right of appeal is a vested right and such a right to enter the superior court accrues to the litigant and exists as on and from the date the lis commences and although it may be actually exercised when the adverse judgment is pronounced such right is to be governed by the law prevailing at the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal.

(v) This vested right of appeal can be taken away only by a subsequent enactment, if it so provides expressly or by necessary intendment and not otherwise.”

The aforesaid case is further approved by the Constitution Bench of this Court in the case of Shyam Sunder v. Ram Kumar, (2001) 8 SCC 24. Paras 24, 26, 27 and 28 of the judgment, which are relevant are reproduced hereunder:

“24. In Garikapati Veeraya s. N.Subbiah Choudhry, 1957 SCR 488 this Court observed as thus: (AIR p.533, para 25)

"The golden rule of construction is that, in the absence of anything in the enactment to show that it is to have retrospective operation, it cannot be so construed as to have the effect of altering the law



applicable to a claim in litigation at the time when the Act was passed."

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26 In Hitendra Vishnu Thakur & Ors. vs. State of Maharashtra & Ors., (1994) 4 SCC 602, this Court laid down the ambit and scope of an amending act and its retrospective operation as follows: (SCC p.633, para 26)

"(i) A statute which affects substantive rights is presumed to be prospective in operation unless made retrospective, either expressly or by necessary intendment, whereas a statute which merely affects procedure, unless such a construction is textually impossible, is presumed to be retrospective in its application, should not be given an extended meaning and should be strictly confined to its clearly-defined limits.

(ii) Law relating to forum and limitation is procedural in nature, whereas law relating to right of action and right of appeal even though remedial is substantive in nature.

(iii) Every litigant has a vested right in substantive law but no such right exists in procedural law.

(iv) A procedural statute should not generally speaking be applied retrospectively where the result would be to create new disabilities or obligations or to impose new duties in respect of transactions already accomplished.

(v) A statute which not only changes the procedure but also creates new rights and liabilities shall be construed to be prospective in operation, unless otherwise provided, either expressly or by necessary implication."

27. In K.S. Paripoornan v. State of Kerala, (1994) 5 SCC 593 (SCC at p.636), this Court while considering the effect of amendment in the Land Acquisition Act in pending



proceedings held thus: (SCC para 67)

"67....In the instant case we are concerned with the application of the provisions of sub-section (1-A) of S.23 as introduced by the Amending Act to acquisition proceedings which were pending on the date of commencement of the Amending Act. In relation pending proceedings, the approach of the courts in England is that the same are unaffected by the changers in the law so far as they relate to the determination of the substantive rights and in the absence of a clear indication of a contrary intention in an amending enactment, the substantive rights of the parties to an action fall to be determined by the law as it existed when the action was commenced and this is so whether the law is changed before the hearing of the case at the first instance or while an appeal is pending (See Halsbury's Laws of England, 4th Edn., Vol.44, para 922)".

28. From the aforesaid decisions the legal position that emerges is that when a repeal of an enactment is followed by a fresh legislation, such legislation does not affect the substantive rights of the parties on the date of suit or adjudication of suit unless such a legislation is retrospective and a court of appeal cannot take into consideration a new law brought into existence after the judgment appealed from has been rendered because the rights of the parties in an appeal are determined under the law in force on the date of suit. However, the position in law would be different in the matters which relate to procedural law but so far as substantive rights of parties are concerned they remain unaffected by the amendment in the enactment. We are, therefore, of the view that where a repeal of provisions of an enactment is followed by fresh legislation by an amending Act such legislation is prospective in operation and does not affect substantive or vested rights of the parties unless made retrospective either expressly or by necessary intendment. We are



further of the view that there is a presumption against the retrospective operation of a statute and further a statute is not to be construed to have a greater retrospective operation than its language renders necessary, but an amending Act which affects the procedure is presumed to be retrospective, unless amending Act provides otherwise.....”

*The right conferred to the landholders/owners of the acquired land under Section 24(2) of the Act is the statutory right and, therefore, the said right cannot be taken away by an Ordinance by inserting proviso to the abovesaid sub-section without giving retrospective effect to the same. Taking into consideration the fact that we have allowed similar matters in C.A. No. 4284/2011 titled M/s. Magnum Promoters P. Ltd. Vs. Union of India & Ors., vide order dated 27.11.2014 and in other appeals also by following the earlier decisions of this Court with regard to taking physical possession of the acquired land by the Land Acquisition Collector, which are extensively referred in the above judgment, promulgation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 was made on 31.12.2014, which is prospective in nature and, therefore, it cannot be applied to their cases. **For the foregoing reasons, the interlocutory applications are allowed and consequently, the appeals are also allowed by quashing the acquisition proceedings in relation to the applicants/appellants.**”*

6. Thereafter, however, certain confusion appears to have been caused due to a recent survey attempted by the Delhi Development Authority (hereinafter “DDA”) on the subject land, on the basis of possession proceedings dated 31st December, 2013, in Award No.7 /1998-99. The stand of the DDA is that the possession of the land has been given to it in 2013 by the Land Acquisition Collector (hereinafter “LAC”). However, the LAC’s clear stand on record is that the possession proceedings were stayed initially and thereafter, *vide* the



order of the Supreme Court dated 12th January, 2015, the acquisition proceedings have itself been quashed. Accordingly, as per the LAC, the possession of the subject land was never given to the DDA.

7. *Vide* order dated 6th November, 2024, the LAC was directed to file an affidavit in respect of the submissions made before the Court on the said date, however, no affidavit has been filed.

8. Today, Mr. Sanjay Kumar Pathak, Id. Standing Counsel on behalf of LAC, candidly submits that he has sought instructions and the DDA's stand as per the letter dated 30th August 2024 is incorrect in view of the judgment of the Supreme Court dated 12th January, 2015.

9. In fact, the office of the LAC has itself confirmed *vide* order dated 24th May 2016 that the possession proceedings have been quashed for the subject land in respect of both the petitioners, namely M/s G.R. Estates Private Limited and M/s Shrishty Impex Private Limited. The said order is relevant and the same is reproduced hereinbelow:



W.P.(C)-14985/2024

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
OFFICE OF THE LAND ACQUISITION COLLECTOR DISTT. NEW DELHI
12/1, JAM NAGAR HOUSE, NEW DELHI - 110011.

No.F.1/ADM/LAC/ND/2016/ E12-C17

DATED: 24/05/2016

To

The S.D.M(VV)
Sub - Division Vasant Vihar,
Old Terminal Tax Building,
Kopasbara, New Delhi.

SUB: Correction Of Revenue Record In Respect Of Village Malikpur Kohli @ Rangpur.
Ref: LETTER NO. F.1/24-25/1999/L&B/WC/Vol.II dated 26.02.2016.

Sir,

On the subject and reference cited above & as per the direction of ADM/LAC/ND, I am directed to state that the applicants, (1) Sh. Mukesh Rama on behalf of M/s Radianse Pincap Pvt. Ltd., (2) M/s G.R. Estates Private Limited & (3) M/s Shrishty Impex Private Limited have moved applications for the correction of revenue record of Village Malikpur Kohli @ Rangpur. The details of the applicants with Khara nos. are given as under:-

S.No.	C.A.No.	Title of the case with Khara Nos.
1.	4285/2011	M/s Radianse Pincap (P) Ltd. Vs UOI. - Kh.No.718/1, 718/2, 720, 796, 801, 802, 803, 804, 805, 806, 799, 770, 772, 773, 774, 781, 782, 783, 807, 808, 812, 813, 814, 815, 816, 817, 818, 819, 820, 822, 823, 824, 825, 826 & 827.
2	4285/2011	M/s G.R.Estates (P) Ltd. Vs UOI. - Kh.No.735/1, 735/2, 798, 791/1, 791/2, 792/1, & 793.
3	4285/2011	M/s Shrishty Impex(P) Ltd. Vs UOI. - Kh.No. 790, 791/1 & 791/2.

A clarification regarding litigation status/objection was sought by this office vide letter No.ADM/LAC/ND/2016/254 dated 22.02.2016 from the office of Land & Building Department. In reply to this office letter, the Dy. Legal Advisor, (Writ Cell), Land & Building Department vide his letter No.F.1/24-25/1999/L&B/WC/Vol.II dated 26.02.2016 has stated that:-

"In this regard, it has been clarified that about the notification of acquisition proceedings in respect of the subject land in the above noted civil appeal has been declared as lapsed in terms of section 24(2) of new LARR Act, 2012 by the Hon'ble Supreme Court, the judgment had achieved finality. However, the judgment will be applicable to the writ petitioners/applicants only and not for others."

The copy of above legal opinion received from Land & Building Department is enclosed for ready reference & necessary action. SDM(Vasant Vihar) & Tehsildar (Vasant Vihar) may do the needful accordingly.

This is issued with the prior approval of Competent Authority i.e ADM/LAC/ND.

Yours Faithfully,

NAID TEHSILDAR
DISTT. NEW DELHI.

Copy for information to:-

1. PA to Special Secretary, L&B Deptt., ITO Vikas Bhawan, New Delhi.
2. Deputy Secretary(LM), Land Management Branch, DDA, INA, Vikas Sadan, New Delhi.
3. PA to DM(New Delhi), 12/1, Jamnagar House, New Delhi.
4. Sh. Mukesh Rama on behalf of M/s Radianse Pincap Pvt. Ltd., A-40, Preet Nagar, Delhi-110041.
5. M/s G.R. Estates Private Limited, 312-320, 2nd Floor, Indraprasth 21, Banakhamba Road, New Delhi - 110001
6. M/s Shrishty Impex Private Limited, 312-320, 2nd Floor, Indraprasth 21, Banakhamba Road, New Delhi - 110001.

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10. In light of the above discussion, there can be no doubt that there are no possession proceedings pending in respect of the subject land. Further, no such possession proceedings can be initiated in respect of said land so long as the decision of the Hon'ble Supreme Court dated 12th January, 2015 stands.



11. The present writ petition is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 06, 2024/kr/ms/pr