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

+ **W.P.(C) 15934/2024**

BIR SINGH & ANR.

.....Petitioners

Through: Mr. Dushyant Bhargava, Mr. Satish Sharma, Mr. Sachin Yadav, Mr. Pawan Mehta, Mr. Vrinder Thakur and Mr. Vikram Singh, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Tarun Johri and Mr. Vishwajeet Tyagi, Advocates for Respondent No.2/DMRC.

Ms. Shobhana Takiar, Advocate for Respondent No.3/DDA.

Mr. Sanjay Kumar Pathak, Standing Counsel with Mr. Sunil Kumar Jha, Advocate for Respondent No.4/LAC.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

18.11.2024

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CM APPL. 66983/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This writ petition has been preferred on behalf of the Petitioners seeking the following reliefs:

“A. Issue a writ in the nature of mandamus thereby directing the Respondents 3 to handover an alternate land to respondent 2 and further directing the respondent 2 to handover the said land to the petitioners in



compliance of the agreement entered between the petitioners and respondent.

B. Issue a writ in the nature of mandamus thereby directing the Respondent 2 to Release and handover an alternate land to the Petitioners in the proximity area having same market value.

C. Issue any other appropriate writ as may deem fit and proper thereby directing the Respondents to comply with the Obligatory conditions of the Agreement executed between respondent 2 & Petitioners.

D. Pass any other appropriate orders which this Hon'ble Court may deem fit and proper in circumstances of the case."

4. Ms. Shobhana Takiar, learned counsel appearing on behalf of Respondent No.3/Delhi Development Authority ('DDA') on advance copy of the writ petition, submits that the cause of action, if any, is against the Land Acquisition Collector ('LAC'), who has not been impleaded as a party in this writ petition.

5. On oral request of counsel for the Petitioners, LAC is impleaded as Respondent No.4 in the present writ petition. Amended memo of parties be filed during the course of the day. Mr. Sanjay Kumar Pathak, learned Standing Counsel appearing in Court in connection with another matter, accepts notice on behalf of Respondent No.4/LAC. Since this Court is disposing of this writ petition only with a limited direction to LAC to take a decision treating this writ petition as a representation, no counter affidavit is required at this stage.

6. As per the case set up by the Petitioners in the writ petition, Respondent No.3/DDA issued a letter dated 26.12.2012 to Respondent No.2/DMRC seeking allotment of land ad measuring 2,27,978 Sq. Mtrs. in Kalindi Kunj, New Delhi for constructing Kalkaji-Botanical Garden Corridor from Chainage 25.75 Km to Ch. 36.67 Km. Out of the said area, Petitioners were recorded owners of 4,233 Sq. Mtrs. land on the said date.



Respondent No.2 executed an agreement on 16.12.2014 with the Petitioner(s) would surrender 4,233 Sq. Mtrs. and in lieu of which Respondent No.2 would provide alternative land in two parts. Subsequently, land ad measuring 2,263 Sq. Mtrs. was provided to the Petitioners, however, Respondent No. 2 undertook to hand over the remaining land of 1,970 Sq. Mtrs. after the decision in pending writ petition being CWP No. 1234/2014 in this Court and on DDA transferring/allotting land to DMRC.

7. It is averred in the writ petition that the writ petition was disposed of on 23.10.2017 as withdrawn and has no relevance to the present case as it was filed at the instance of some third party. Review petition was also dismissed on 30.11.2017. On 29.11.2021, notice was sent to DMRC and the Conciliator for conciliation proceedings which was subsequently initiated but the parties could not arrive at any resolution and hence the proceedings terminated on 08.06.2022. Thereafter, Petitioners made a representation to DMRC on 18.03.2024 for allotment of the land as per the written agreement. However in response thereto, in the reply dated 02.04.2024, DMRC now shifted the burden on DDA whereafter Petitioners also made representations to the DDA for release of land. This was followed by several representations but to no avail. On 23.09.2024, DMRC informed the Petitioners pursuant to an application under the Right to Information Act, 2005 that they were willing to hand over the alternate land but formal allotment was awaited from DDA and hence the Petitioners have approached this Court as no action is being taken.

8. Issue notice.

9. Counsels, as above, accept notice for the respective Respondents.

10. Learned counsel for DMRC submits that Petitioners cannot enforce



any cause against DMRC in the present writ petition as there is an arbitration clause incorporated in the agreement executed between the Petitioners and DMRC and the writ petition is not maintainable against the said Respondent. Learned counsel for DDA, as noted above, has taken a position that it is the LAC which has to first take a decision in the matter.

11. Accordingly, without entering into merits of the case, this writ petition is disposed of by directing LAC to treat this writ petition as a representation and take a decision on the issues flagged by the Petitioners relating to allotment of alternate plot in view of the land surrendered by them in favour of DMRC. The decision shall be taken within eight weeks from the date of receipt of this order by the LAC. In case, the decision is in favour of the Petitioners, process shall be initiated by the concerned Authorities for allotment of land and in case the decision is otherwise, a reasoned and speaking order shall be passed which will be communicated to the Petitioners within one week from the decision and it shall be open to the Petitioners to take recourse to legal remedies, if so advised. It is also made clear that this Court has not entered into the issue of maintainability of the writ petition *qua* DMRC in light of the arbitration clause in the agreement executed between the Petitioners and DMRC.

JYOTI SINGH, J

NOVEMBER 18, 2024

B.S. Rohella/shivam