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

+ **W.P.(C) 6992/2017**

MAHENDER SINGH & ORS

.....Petitioner

Through: Mr. Manish Vats and Mr.
Hemant Vats, Advs.

versus

GOVT. OF NCT DELHI & ORS

.....Respondents

Through: Mr. Rajneesh Sharma, Adv. for
R-1 and R-2.

Mr. Divyam Nandrajog, Panel
Counsel, GNCTD, with Mr.
Prakhyat Gargasya, Adv. for R-
3.

Mr. Himanshu, Junior
Engineer, ISFC Deptt.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

02.12.2024

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1. This writ petition has been preferred seeking the following
reliefs: -

“In view of the above said facts and circumstances, it is most respectfully and humbly prayed that this Hon'ble Court may graciously be pleased to issue an appropriate writ, order or directions declaring the entire acquisition proceedings in respect of the land of petitioners total land ad-measuring 1 bigha and 2 biswas comprised in Khasra No.665 min situated in the Revenue estate of Village Jaffapur @ Hiran Kudna, Delhi, under the Land Acquisition Act, 1894 in view of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

It is, further prayed, that an amount of Rs.6 lacs be also ordered to be paid to the petitioners on account of damages from the respondent in view of ground 5 and 6 above.



Any other order as this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioners and against the respondents in the interest of justice.”

2. From the disclosures which are made on behalf of the respondents, we find that the acquisition had commenced pursuant to the issuance of a Notification under Section 4 read along with Section 17(1) of the **Land Acquisition Act, 1894**¹ on 18 July 1995. This was followed by a declaration referable to Section 6 of the 1894 Act which came to be published on 14 December 1995. An Award thereafter came to be passed on 12 December 1997. According to the **Land Acquisition Collector**², physical possession of the land comprising Khasra No. 665 (1-2) situated in Village Jaffarpur at Hiran Kunda was taken on 02 February 1999.

3. The acquisition is stated to have been initiated for the purposes and the benefit of the Irrigation and Flood Control Department of the Government of National Capital Territory of Delhi. From the counter affidavit filed in these proceedings by that respondent, we find that according to the said respondent the subject property was handed over to them on 02 February 1999.

4. It is thereafter and from the disclosures made gathered, that the land could neither be fenced nor earmarked. It is in the aforesaid backdrop perhaps that the petitioner seeks to assert that possession of the subject land has not been taken.

5. However, and in light of the principles pertaining to possession which have come to be enunciated by the Constitution Bench in **Indore Development Authority vs. Manoharlal and Ors.**³, we note that even if the possession taken be symbolic, the same would suffice

¹ 1894 Act

² LAC



for the purposes of proceedings initiated under the 1894 Act. We deem it apposite to reproduce the following extracts from *Indore Development Authority*:-

“274. It was submitted on behalf of landowners that under Section 24 the expression used is not possession but physical possession. In our opinion, under the 1894 Act when possession is taken after award is passed under Section 16 or under Section 17 before the passing of the award, land absolutely vests in the State on drawing of panchnama of taking possession, which is the mode of taking possession. Thereafter, any re-entry in possession or retaining the possession is wholly illegal and trespasser's possession inures for the benefit of the owner and even in the case of open land, possession is deemed to be that of the owner. When the land is vacant and is lying open, it is presumed to be that of the owner by this Court as held in *Kashi Bai v. Sudha Rani Ghose* [*Kashi Bai v. Sudha Rani Ghose*, AIR 1958 SC 434] . Mere re-entry on government land once it is acquired and vests absolutely in the State (under the 1894 Act) does not confer any right to it and Section 24(2) does not have the effect of divesting the land once it vests in the State.

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278. We have seen the blatant misuse of the provisions of Section 24(2). Acquisitions that were completed several decades before even to say 50-60 years ago, or even as far back as 90 years ago were questioned; cases filed were dismissed. References were sought claiming higher compensation and higher compensation had been ordered. Now, there is a fresh bout of litigation started by erstwhile owners even after having received the compensation in many cases by submitting that possession has not been taken and taking of possession by drawing a *panchnama* was illegal and they are in physical possession. As such, there is lapse of proceedings.

279. The Court is alive to the fact that there are a large number of cases where, after acquisition land has been handed over to various corporations, local authorities, acquiring bodies, etc. After depositing compensation (for the acquisition) those bodies and authorities have been handed possession of lands. They, in turn, after development of such acquired lands have handed over properties; third-party interests have intervened and now declaration is sought under the cover of Section 24(2) to invalidate all such actions. As held by us, Section 24 does not intend to cover such cases at all and such gross misuse of the provisions of law must stop. Title once vested, cannot be obliterated, without an

³ (2020) 8 SCC 129



express legal provision; in any case, even if the landowners' argument that after possession too, in case of non-payment of compensation, the acquisition would lapse, were for arguments' sake, be accepted, these third-party owners would be deprived of their lands, lawfully acquired by them, without compensation of any sort. Thus, we have no hesitation to overrule the decisions in *Velaxan Kumar* [*Velaxan Kumar v. Union of India*, (2015) 4 SCC 325 : (2015) 2 SCC (Civ) 599] and *Narmada Bachao Andolan* [*State of M.P. v. Narmada Bachao Andolan*, (2011) 7 SCC 639, paras 78-85 : (2011) 3 SCC (Civ) 875] with regard to mode of taking possession. We hold that drawing of *panchnama* of taking possession is the mode of taking possession in land acquisition cases, thereupon land vests in the State and any re-entry or retaining the possession thereafter is unlawful and does not inure for conferring benefits under Section 24(2) of the 2013 Act."

6. We also bear in consideration the requirements of Section 24(2) of the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013**⁴ and which contemplates both contingencies, namely a failure to tender compensation as well as to take possession being cumulatively satisfied in order for a declaration being rendered that the acquisition had lapsed.

7. In light of the facts which appear on the record and what has been noticed by us hereinabove, we are of the considered opinion that the relief referable to Section 24(2) cannot possibly be granted.

8. However, and since the land was acquired by the respondents, they cannot stand absolved from their obligation to pay compensation. From the disclosures which are made by and on behalf of the LAC and which stand reflected in Paragraph 6 of that affidavit, we find that they have woefully failed to assert that compensation was either tendered or deposited in the Revenue account.

9. In view of the aforesaid, and while we refuse to grant the writs

⁴ 2013 Act



as prayed for, we dispose of the writ petition by providing that the compensation as duly computed in terms of the provisions contained in the 1894 Act shall be disbursed to the concerned parties within a period of six weeks from today. This would be subject to due verification of the relevant record pertaining to the recorded owners as that stood on the date of issuance of the Section 4 Notification.

10. Insofar as the oral submission with respect to the land being de-notified is concerned and which was addressed by learned counsel for the petitioner, we find ourselves unable to consider or countenance that prayer, bearing in mind our conclusions rendered hereinabove on the aspect of possession. It is well settled that once possession has come to be taken, Section 48 of the 1894 Act would not be applicable and it would be impermissible for the respondents to de-notify the land which formed subject matter of the original notifications.

11. Subject to the aforesaid observations, this writ petition stands disposed of on the aforementioned terms.

YASHWANT VARMA, J

DHARMESH SHARMA, J

DECEMBER 2, 2024/gunn