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

+ **W.P.(C) 1918/2017 & CM APPL. 8491/2017**

SHRI MADAN AND ORS

.....Petitioners

Through: Mr. N.S Dalal, Ms. Nidhi Dalal, Mr.
Alok Dalal, Ms. Rachana Dalal,
Advocates.

versus

GOVT OF NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Abhinav Sharma, Mr. Ujjwal
Jain, Advocates.
Mr. Mukesh Neena, Chief Engineer
(R4-PWD)
Mr. Sanjay Kumar Pathak, Standing
Counsel for R-3 with Mr. Sunil
Kumar Jha, Mr. M.S Akhtar, Ms.
Joochu Kumari, Mr. Kushagra Dixit,
Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

22.04.2026

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1. This petition arises from a narrow but recurring difficulty in the execution of a public road project. While revenue records describe land in terms of khasra numbers and acquired areas, the executing agencies proceed with reference to road width, service lanes, etc. The Petitioners allege that, in this translation from record to site, their unacquired land on the southern side of the Narela-Lampur road is being subjected to demolition, even as encroachment on acquired land on the northern side remains unaddressed. The Respondents, however, maintain that their actions are confined to



acquired public land, and the issue is one of identification and possession.

2. The Petitioners are residents of Village Bakner. Their case centres on land forming part of Khasra No. 36/15/1, situated on the southern side of the road leading from Narela to Lampur. They seek protection from demolition in respect of approximately 10 biswas which, according to them, has not been acquired. They also seek removal of encroachment allegedly existing on the northern side of the road over land acquired under Award Nos. 1177 and 1216, an enquiry into the non-removal of such encroachment, and completion of the project.

3. The Petitioners' case is that the road from Narela to Lampur originally had a width of 5 gathas. According to them, land was acquired in the 1960s for widening the road by 3 gathas towards the northern side. They further plead that, for construction of the Railway Under Bridge ["RUB"], 2 gathas were acquired on each side of the road under Award No. 2/2012-13. Their grievance is that, instead of removing encroachment from the acquired land on the northern side, the authorities have attempted demolition towards the southern side, beyond the extent acquired.

4. The revenue record relied upon by the Petitioners records Khasra No. 36/15/1 in Village Bakner under Khata/Khatoni No. 6/1, with an area of 0-15. The recorded bhumidari rights are shown from 1954-55. This document, at the least, provides a foundation for the Petitioners' assertion that Khasra No. 36/15/1 was a recorded holding and that its identity and extent cannot be assumed without proper demarcation.

5. The acquisition history is not in serious dispute. Award No. 1177



relates to acquisition in Village Bakner¹ for construction of a pucca road from Narela to Lampur. The notification under Section 4 of the Land Acquisition Act, 1894 [*“LA Act”*] was issued on 30th November, 1955 and the declaration under Section 6 followed on 24th May, 1961. The *“true area”* under that award is recorded as 8 bighas 19 biswas. The award refers to field numbers principally in the 37 and 39 series, besides 35/10/1/1 and 106/1.

6. Award No. 1216 also concerns acquisition in Village Bakner² for the same road. It records acquisition of about 7 bighas 11 biswas. Some entries relate to field numbers in the 36 series as well. The award further records that *“Field No. 36/6 pt. was erroneously notified”*, as no such field number existed, and required deletion from the notification. The land was divided into blocks for valuation, depending on its proximity to the village abadi.

7. The later and more relevant award is Award No. 2/2012-13. It concerns acquisition for construction of the RUB at the *“level crossing on Narela-Lampur road in Narela Zone”*. The Section 4 notification was issued on 3rd February, 2010. The declaration under Section 6 followed on 12th February, 2010. Section 17 of the Act was invoked, and the enquiry under Section 5A was dispensed with. The award covers land in Village Narela and Village Bakner³, with the total area recorded as 5 bighas 13 biswas 1 biswansi.

8. For Village Bakner, Award No. 2/2012-13 records acquisition of 2 bighas 7 biswas. The khasra numbers include 106/2, 35//11/1, 36//6/1/1/1, 6/1/1/2, 6/1/2, 6/1/4, 6/1/5, 6/1/7, 7/5, 7/6, 7/7, 13, 14, 15/1, 15/3, 35-36//10 and 60. The entry *“15/1”* is shown with an area of 0-05-02. This assumes

¹ Mentioned as “Bankner” in the record.

² Mentioned as “Bankner” in the record.



significance in the context of the Petitioners' case that only a limited portion of Khasra No. 36/15/1 stood acquired, leaving approximately 10 biswas.

9. Award No. 2/2012-13 further records that possession of the notified land in Village Bakner was taken on 3rd April, 2012, after demolition of unauthorised structures by the staff of the Land Acquisition Collector ["LAC"] along with the Tehsildar, Narela, and was thereafter handed over to Municipal Corporation of Delhi ["MCD"] officials.

10. Respondent No. 3 i.e., Land & Building Department, through LAC, in their Counter Affidavit, has taken a substantially similar position. It states that the super-structures existing on land measuring 2 bighas 7 biswas were subject to proceedings under Section 11 of the LA Act; that Award No. 2/2012-13 was announced on 7th February, 2013; that demolition of structures took place between 5th March, 2012 and 3rd April, 2012; and that the land was handed over to MCD on an "*as is where is*" basis. It is also stated that some super-structures could not be demolished at that stage and were to be removed subsequently.

11. The stand of Respondent No. 2 i.e., North Delhi Municipal Corporation (now merged into MCD), however, has not been entirely consistent with this position. In one of its Affidavits, it states that although land was acquired for construction of the RUB and service lanes on both sides, complete possession had not been handed over to it despite requests made to the LAC. It further states that removal of encroachment in respect of land forming part of Khasra No. 36/15/1 pertained to the Revenue Department, as the land had not been handed over to MCD.

12. In another affidavit, Respondent No. 2 states more specifically that 2

³ Mentioned as "Bankner" in the record.



gathas of land were acquired on each side of the road for construction of the RUB and service lanes. It accepts that complete possession could not be granted to it by the LAC, as the handing-over note itself recorded that certain buildings were yet to be demolished and possession would be handed over thereafter. According to Respondent No. 2, some part of the land on the northern side has still not been handed over, and the issue of possession is pending before the LAC, to be finalised after demarcation. It is for this reason, according to Respondent No. 2, that encroachment on the northern side could not be removed.

13. Respondent No. 2 has also stated that the demolition carried out on the southern side of the RUB was a limited exercise within the right of way, and that the encroached portion was removed for construction of a drain. It is further stated that the drain work has been completed and that the RUB is fully functional.

14. The record thus reveals a real administrative disconnect. While the record of Respondent No. 3 (LAC) indicates that possession of the notified land in Village Bakner was taken and handed over to Respondent No. 2, the latter asserts that complete possession, particularly on the northern side, was not handed over and that the position can be finalised only upon demarcation. This is not a mere inconsistency in pleadings. It goes to the heart of the Petitioners' grievance, since the relief sought turns on the precise identification of acquired land, unacquired private land, right of way, and encroached portions.

15. On 19th May, 2022, this Court recorded the statement made on behalf of Respondents No. 2 and 3 that the concerned authorities of both departments would hold a meeting, in light of their affidavits, to arrive at a



conclusion regarding further action on the issue of encroachment. It also noted that Respondents No. 2 and 3 submitted to file an affidavit regarding the outcome of the proposed meeting.

16. On 22nd December, 2022, the Court noted that Respondent No. 2 had written to Respondent No. 3, but no meeting had been fixed. Respondent No. 3 stated that the meeting would be held in January, 2023. The Court accordingly directed that a joint meeting be convened between Respondents No. 2 and 3 within that month, and that requisite affidavits be filed.

17. A meeting was thereafter held on 17th January, 2023 in the chamber of the Additional District Magistrate (North). The minutes record the presence of officers of presence of officers of Respondent No. 2 (MCD), Respondent No. 3 (LAC), the Tehsildar, Narela, and the Land & Building Department. The agenda, however, is recorded as “*handing over/taking over the physical possession of land bearing Khasra Nos. 52/3(00-00-10), 52/8(00-01-00)*” in Village Narela, acquired under Award No. 02/2012-13. The minutes further record that MCD would bear the cost of demarcation, that the Narela Sub-Division would carry out demarcation within 30 days upon receipt of the requisite communication, and that concerned LAC officials would remain present during the demarcation process.

18. The order dated 19th May, 2023 referred to the earlier directions regarding the joint meeting and demarcation, took note of the minutes dated 17th January, 2023, and directed Respondent No. 2 to carry out the demarcation process, preferably within three months from the date of order.

19. Thereafter, Respondent No. 2 filed an affidavit stating that, in the meantime, the RUB along with drains, street lights, sump well and pump room had been handed over to Respondent No. 4 i.e., Public Works



Department [“PWD”] by letter dated 24th February, 2023. It further stated that “MCD will assist to PWD in removal of encroachment”.

20. The record indicates that a joint inspection was carried out by Respondent No. 2 (MCD) along with officials of Respondent No. 4 (PWD) officials on 16th February, 2023, and that the RUB at Narela, having a length of approximately 565 metres, along with service roads, drains, street lights, sump well, pump room, drawings, and remaining road portions towards the Narela and Lampur sides, was handed over to PWD.

Discussion and Reasons

21. The record noted above leads the Court to one conclusion: the petition cannot be decided by accepting either side’s assertion on the basis of the documents alone. The Petitioners cannot claim blanket protection against every action of the public authorities on acquired land. Equally, the authorities cannot proceed against land claimed as unacquired private land merely by asserting that the action falls within the road or right of way. The controversy, as it stands, turns on identification on the ground.

22. The Court must also notice that the joint meeting dated 17th January, 2023 does not appear, on its face, to have squarely addressed Khasra No. 36/15/1 of Village Bakner, which lies at the centre of the Petitioners’ grievance. The meeting refers to Khasra Nos. 52/3 and 52/8 in Village Narela. That land may have some connection with the larger RUB project, but the minutes do not, by themselves, resolve the controversy raised in this petition. The direction required identification of acquired land and private land in relation to the Petitioners’ grievance. That exercise cannot be treated as complete unless the disputed portion of Khasra No. 36/15/1 and the adjoining road alignment are demarcated with reference to the relevant



record.

23. In matters of this nature, the Court is not called upon to decide title as if it were trying a civil suit. Nor is it appropriate, in writ jurisdiction, to record final factual findings on the exact location of every encroachment where the record itself indicates the need for field demarcation. The role of this Court is narrower: to ensure that public authorities act on an identified and legally supportable basis, and not on assumption.

24. The law provides sufficient guidance for such an approach. In *Vidya Devi v. State of Himachal Pradesh & Ors.*⁴, the Supreme Court reiterated that the right to property, though no longer a fundamental right, continues to be a constitutional and human right. It observed that Article 300A of the Constitution of India mandates that no person shall be deprived of property save by authority of law, and that the State cannot dispossess a citizen of property except in accordance with the procedure established by law. Any deprivation without legal sanction would be impermissible, and forcible dispossession without due process would be violative of Article 300A. The Court further observed that the obligation to pay compensation, though not expressly provided, can be inferred in such cases.

25. It is settled that once possession of acquired land is taken in terms of the LA Act, the land vests in the State free from all encumbrances, and such vesting is absolute.⁵ Thereafter, the land cannot ordinarily revert to the original owner, nor can the validity of acquisition be reopened on that basis. The Petitioner also does not seek to reopen the acquisition. It proceeds on the limited premise that the identity and extent of the land so acquired, as

⁴ (2020) 2 SCC 569.

⁵ See: *Indore Development Authority v. Manoharlal & Ors.* (2020) 8 SCC 129.



reflected on the ground, must first be ascertained.

26. Where the controversy relates to the boundary, identity of land, or alleged encroachment between adjoining holdings, demarcation assumes central importance. In *Haryana Waqf Board v. Shanti Sarup & Ors.*⁶, the Supreme Court observed that where the dispute is essentially one of demarcation of land, it is appropriate for the Court to direct a local investigation by appointing a Local Commissioner under Order XXVI Rule 9 of the Code of Civil Procedure, and that such an exercise ought to be considered in view of the nature of the dispute. The principle applies with force in a case such as the present, where even the public authorities take differing positions regarding possession and handing over.

27. The Court is conscious that this petition has remained pending since 2017. The RUB and allied works appear to have been completed and thereafter handed over to Respondent No. 4 (PWD). The prayer for completion of the project, therefore, does not survive in its original form. The surviving controversy is whether any further action against structures or occupation is being proposed without proper identification of acquired and unacquired land, and whether encroachment, if any, exists over acquired public land.

28. Pursuant to the order dated 13th January, 2026, the Chief Engineer, Respondent No. 4 (PWD), was directed to remain present before the Court. He has joined the proceedings through the Video Conferencing mechanism. It is stated on his behalf that, due to lack of proper communication, he could not remain physically present. The explanation is accepted for the present. His personal appearance is accordingly exempted.



29. Counsel appearing for Respondent No. 4 (PWD) submits that instructions have now been issued to the District Magistrate (North) for carrying out demarcation. Counsel for the other Respondents also do not dispute that demarcation is necessary before any further coercive action is taken. The Petitioners, too, have consistently sought proper demarcation so that their unacquired land is not affected and the acquired land, if encroached upon, is cleared in accordance with law.

30. In view of the above, no useful purpose will be served by keeping the petition pending. The appropriate course is to direct a focused demarcation by the revenue authority, with participation of the concerned executing agencies and after notice to the Petitioners and affected persons. The result of that demarcation will determine what action, if any, may lawfully follow.

31. The petition is accordingly disposed of with the following directions:

(i) The District Magistrate (North), through the competent revenue authority, shall carry out demarcation of the disputed stretch of the Narela-Lampur road, with specific reference to Khasra No. 36/15/1 of Village Bakner, the acquired portion under Award No. 2/2012-13, and the adjoining land covered by Award Nos. 1177 and 1216, to the extent relevant for identifying the road alignment and alleged encroachments.

(ii) The demarcation shall not be confined to Khasra Nos. 52/3 and 52/8 of Village Narela unless the revenue authority records, with reasons, how those khasra numbers bear upon the Petitioners' grievance regarding Khasra No. 36/15/1 of Village Bakner.

(iii) The exercise shall be carried out in the presence of authorised representatives of the District Magistrate (North), the concerned officers of

⁶ (2008) 8 SCC 671.



Respondents No. 2, 3 and 4, and the concerned revenue staff. The Petitioners shall be given at least seven days' advance notice of the date and time of demarcation and shall be permitted to remain present.

(iv) If, under the applicable revenue procedure, a statutory demarcation fee is required to be deposited by the party seeking demarcation, the Petitioners shall deposit the same within the time indicated by the revenue authority. However, where the demarcation is required for the public project and for identifying acquired public land, the beneficiary department shall also cooperate and bear such charges as may fall to its share in terms of the minutes dated 17th January, 2023 or as directed by the District Magistrate (North).

(v) The demarcation shall be carried out with reference to the latest revenue record, the khatoni, field book, aks-shajra/sizra, possession proceedings, Award Nos. 1177, 1216 and 2/2012-13, and any sanctioned project/site plan relied upon by Respondent No. 4 (PWD) or Respondent No.2 (MCD).

(vi) The demarcation report shall clearly identify:

- (a) the original road alignment;
- (b) the land acquired under Award Nos. 1177 and 1216, so far as it concerns the Narela-Lampur road;
- (c) the land acquired under Award No. 2/2012-13, particularly the portion recorded as 15/1 measuring 0-05-02;
- (d) the remaining portion, if any, of Khasra No. 36/15/1 not covered by acquisition;
- (e) the existing road, drains, service lanes and right of way; and
- (f) any encroachment found on acquired public land or on land claimed



by the Petitioners.

(vii) The demarcation report shall record the method adopted, the fixed points used, the documents consulted, the persons present, and the objections, if any, raised at the site.

(viii) The demarcation shall be completed within six weeks from today. A copy of the demarcation report shall be supplied to the Petitioners, and Respondents No. 2, 3 and 4.

(ix) If the demarcation shows encroachment over land acquired for the public project and placed at the disposal of the concerned public agency, the competent authority shall be at liberty to take action for removal of such encroachment in accordance with law, after issuing such notice as may be required.

(x) If the demarcation shows that any proposed or past line of action travels into the unacquired portion of Khasra No. 36/15/1, the Respondents shall not proceed against that portion except in accordance with law.

(xi) The Petitioners shall not derive any protection from this order in respect of land which is found, upon demarcation, to be acquired public land or part of the right of way. Conversely, the Respondents shall not treat this order as permission to demolish or interfere with land which the demarcation shows to be outside the acquisition and outside the lawful right of way.

(xii) If any party is aggrieved by the demarcation report or by any consequential action taken on its basis, it shall be open to such party to avail remedies in accordance with law before the appropriate forum.

32. It is clarified that this Court has not adjudicated title, possession, compensation, validity of acquisition, or private *inter se* claims. All rights



and contentions of the parties are left open.

33. The writ petition is, accordingly, disposed of in the above terms.
Pending application(s), if any, also stand disposed of.

SANJEEV NARULA, J

APRIL 22, 2026/ab