

(2019) 01 DEL CK 0132

In the Delhi High Court

Case No : Civil Writ Petition No. 3623, 3466 Of 2018

Akhil Sibal Through His Current General Power Of Attorney
Holder Aradhna Behl

APPELLANT

Vs

Govt. Of Nct Of Delhi And Ors

RESPONDENT

Date of Decision : 10-01-2019

Acts Referred:

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 1(3), 24, 24(2)
Land Acquisition Act, 1894 — Section 4, 5A, 6

Citation : (2019) 01 DEL CK 0132

Hon'ble Judges : S. Muralidhar, J; Sanjeev Narula, J

Bench : Division Bench

Advocate : Palak Mishra, Suhani Mathur, Mohit Chaudhary, Imran Ali, Yeeshu Jain, Jyoti Tyagi, Ajay Verma, Dhanesh Relan, Sumit Mishra

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

1. These are two writ petitions arising under the same set of facts and seeking similar reliefs and are accordingly being disposed of by this common judgment.

2. In W.P.(C) No.3466/2018, the Petitioner is represented through his current General Power of Attorney holder ("GPA") Amit Sharma and Monika Sharma. The Respondents are the Government of National Territory of Delhi (Respondent No.1) ("GNCTD"), the Land Acquisition Collector ("LAC"), New Delhi (Respondent No.2); and the Delhi Development Authority ("DDA") (Respondent No.3). The prayers in this petition read as under:

"(i) Issue a writ, order or direction in the nature of writ of mandamus against Respondent No. 1 and Respondent No. 2, declaring the Land Acquisition proceedings initiated in respect of the subject land measuring 120 sq. yds. falling

in Khasra No. 1937/2 of village Malikpur Kohi @Rangpuri, Tehsil - Vasant Vihar, New Delhi of the Petitioner which formed part of the notification dated 27-6-1996 (Annexure- "P/15") situated in the revenue estate of Village Malikpur Kohi @ Rangpuri, Tehsil - Vasant Vihar, New Delhi as deemed to have lapsed on 1-1-2014 in view of the provisions of section 1 (3) of the "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

(ii) Issue a writ of mandamus or any other writ quashing the impugned notification dated 4-7-2017 (Annexure- P/24") issued under Section 6 of the Old Act; and

(iii) Pass any other or further order(s) as deemed fit and appropriate in the facts and circumstances of the case.

3. In the narration in this writ petition, it is stated that the Petitioner was conveyed land admeasuring 3 Bighas falling in Khasra No. 1937/2 of village Malikpur Kohi @ Rangpuri, Tehsil Mehrauli, Delhi through sale deed dated 08-08-1984 executed by one Risal Singh and registered with the office of Sub Registrar III, Delhi as document no. 4535 in Book No. I, Volume No. 5091 at pages 159 to 172 on 08-08-1984.

4. It is stated that the name of the Petitioner was then entered in Khatoni for the year 1980 - 1981. Thereafter, the Petitioner is supposed to have executed a Special Power of Attorney ("SPA") on 3rd June, 2005, in favour of one Taslim Danish with power to appoint any other person to do the acts as authorized under the SPA with respect to the land falling not only under Khasra No.1937/2 but in other Khasra numbers including 1934. 1935/2, 1936, 1937/2,1941 and 1942 falling in Malikpur Kohi @ Rangpuri, Tehsil - Vasant Vihar, New Delhi.

5. For the purpose of this petition, it is not necessary to narrate further facts about the said Taslim Danish executing a GPA in favour of another person, who in turn executes further GPAs. It appears that continuously the land has been transacted by execution of several GPAs ending with the GPA dated 7th October, 2010 in favour of the current GPA holder Amit Sharma and Monika Sharma.

6. It is then stated that the subject land measuring 120 square yards in Khasra No.1937/2 "has a built-up property and the same is known as B-613, Vasant Kunj Enclave, New Delhi - 110007". The photographs of the built-up property have been enclosed with the petition. The Petitioner is silent as to who erected the said construction. It appears that there is also electricity connection and that the property has been assessed to property tax.

7. In paragraph 8 of the petition, it is stated that the said land forms subject matter of a notification under Section 4 of the Land Acquisition Act, 1894 ("LAA") dated 27th June, 1996 for the public purpose of planned development of Delhi. It is then stated that the Award in respect of the aforementioned lands was made on 7th January, 1999. In the batch of writ petitions filed in this Court challenging

the acquisition proceedings, inter alia, on the ground that the mandate of Section 5-A of the LAA was violated, this Court passed the judgment in *Geeta Batra v. Government of NCT of Delhi* quashing the acquisition proceedings. Copy of the said judgment is not enclosed. According to the Petitioners, the SLP filed by the GNCTD against the above judgment which was converted into a Civil Appeal No.2997/2012 was also dismissed by the Supreme Court. The copy of this judgment is, however, not enclosed.

8. It is then stated that the Delhi Laws (Special Provisions) Act, 2006 was enacted and extended periodically by providing that the status quo would be maintained in respect of all unauthorized colonies till 31st December, 2020. On a reading of the petition, it is not understood why suddenly in the narration, a reference is made to the above law concerning unauthorized colonies since there is no specific averment that the land in question is a part of any unauthorized colony.

9. In paragraph 14 it is stated that the Respondents published a public notice on 21st November, 2012 stating that the Supreme Court had directed the competent authority to invite objection under Section 5-A of the LAA in respect of Section 4 LAA notification dated 27th June, 1996. It is not understood why this became necessary if in fact the land acquisition proceedings already stood quashed.

10. According to the Petitioner, the current GPA holder filed objections in response to the above notice stating that the proceedings under LAA had lapsed by operation of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("2013 Act"). There appears to be some confusion in this regard in the narration in the petition. If indeed the land acquisition proceedings under the LAA already stood quashed, the question of there being any award under the LAA did not arise. If in fact there was no Award under the LAA then the question of invoking Section 24(2) of the 2013 Act does not arise. Most importantly, if the Petitioner has a building on his own land, then the question of it being an unauthorized colony did not arise. In any event, the petition is totally vague on whether the construction on the land in question is part of an unauthorized colony.

11. The Petitioner then refers to a certain judgment of the Supreme Court where the prayer of lapsing of land acquisition proceedings under Section 24(2) of the 2014 Act has been allowed. It is not sought to be explained why such a declaration in respect of the land in Khasra No.1937/2 of Malikpur Kohi @Rangpuri, Tehsil - Vasant Vihar, New Delhi should be issued. In paragraph 25 of the writ petition, it is stated that the Respondent No. 1 has published a Notification bearing no. F.9(12)/L&B/LA.PT/3062 dated 4th July, 2017 under Section 6 of the LAA. A prayer is made for quashing of that notification as well without explaining why that relief is being sought when there is no award pursuant thereto.

12. The position as regards the accompanying W.P.(C) No.3623/2018 is no

different. This time, the Petitioner is represented by his GPA Aradhna Behl and the relief this time is in respect of the land comprising 500 square yards out of the land in Khasra No.1937/2 in the revenue estate of Village Rangpuri @ Malikpur Kohi with the plot being B-78, B-Block, Vasant Kunj Enclave.

13. The narration otherwise is more or less similar to that contained in W.P.(C) No. 3466/2018. Here too, reference is made to the fact that the challenge to the land acquisition proceedings succeeded by this Court passing a judgment in a batch of petitions in the lead case titled Geeta Batra v GNCTD, the appeal against which by the GNCTD being Civil Appeal No.2997/2012 was dismissed by the Supreme Court.

14. In Ground (I) in the petition, it is stated that the subject land "owned by current GPA holder of the Petitioner has six feet high boundary wall along its perimeter and is part of an unauthorized colony known as Vasant Kunj Enclave, Malikpur Kohi, Village Rangpuri, Delhi which is at Serial No. 59 of the tentative list of colonies proposed to be regularized by the Urban Development Department of Govt. of NCT of Delhi. The action of the Respondent No. 1 in brining the impugned notification will deprive the residents of the benefits under the scheme for regularization."

15. It may be mentioned that an identical averment is contained in Ground (I) of W.P.(C) No.3466/2018. It is, therefore, obvious from a reading of both the petitions that what the Petitioners are trying to do is to avail parallel remedies, without explaining properly as to how the buildings on the lands in question form part of unauthorized colony. The Petitioner is seeking to get the land acquisition proceedings themselves lapsed. If indeed, there was an earlier round of litigation in the Geeta Batra case (supra) where those proceedings stood quashed, the Petitioners do not explain how there can be any further relief of lapsing of land acquisition proceedings. If on the other hand there are fresh Section 6 LAA notifications, without there being any Awards passed in pursuance thereof, the question of issuing any declaration under Section 24 (2) of the 2013 Act does not arise.

16. It appears that the Petitioners are pursuing parallel proceedings and seeking different reliefs in respect of the same lands in question - one is to seek regularization by contending that the building on the land in question is part of an unauthorized colony, the other is to invoke Section 24 (2) of the 2013 Act, to seek lapsing of the land acquisition proceedings. In the considered view of the Court, the attempt at invoking Section 24 (2) of the 2013 Act is, in the circumstances, misconceived. Clearly, therefore, the present petitions are an abuse of the process of the Court where the facts speak for themselves.

17. Further, the manner in which the facts have been narrated, a relief under Section 24 (2) of the 2013 Act, is not even capable of being granted in either of the petitions. In similar circumstances, this Court had in its order dated 19th December, 2018 in W.P.(C) No.190/2016 R. Bhagwan Batra v. Government of

NCT of Delhi, rejected the prayers of the Petitioners where they were seeking a similar relief in respect of the land an unauthorized colony i.e. Guru Ramdass Nagar. The Court there has pointed out that the Petitioner should be pursuing their case for regularization.

18. The Court at this stage may also observe that many of the unauthorized colonies are awaiting regularization orders. A large portion of these colonies are by way of encroachment on public land, some of it may be on private land, but in any event, the constructions themselves are unauthorized. The major premises on which such a regularization is sought is that these constructions have been erected on public or private land which does not belong to the persons who are under occupation of those structures. That very basis gets contradicted as some of them tried to seek a declaration about lapsing of the land acquisition proceedings by invoking Section 24 (2) of the 2013 Act. This is a contradiction in terms and is legally untenable.

19. For the above reasons, the reliefs sought in the present two writ petitions cannot be granted. There is no merit in either of the petitions and they are dismissed as such.