
(2006) 07 DEL CK 0073

In the Delhi High Court

Case No : CMs 261 of 2004 and 2388 of 2005 in WP (C) 3250 of 1997

Kamla Sharma

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 31-07-2006

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 16, 4, 6

Citation : (2006) 131 DLT 519 : (2006) 91 DRJ 636

Hon'ble Judges : Mukul Mudgal, J;Dr. S. Muralidhar, J

Bench : Division Bench

Advocate : N.S. Vashisht, for the Appellant; Sanjay Poddar, for LAC, Sangeeta Chandra, for DDA and Sanjeev Sahay, for Intervenor, for the Respondent

Judgement

S. Muralidhar, J.

CMs 261/2004 and 2388/2005

1. These two applications are filed in Writ Petition (C) 3250/1997 which was disposed of by a Division Bench of this Court on 15.7.2002.

2. The writ petition was filed on 7.8.1997 by the petitioner (since deceased and now substituted by legal representatives) questioning the validity of a Notification dated 25.11.1980 issued u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"), a declaration dated 6.6.1985 u/s 6 of the Act and an Award No. 18/87-88 dated 5.6.1987 in respect of the land of the petitioner admeasuring 25 bighas and 1 biswa, situated within the revenue estate of Village Tughlakabad, in the city of Delhi.

3. One of the contentions of the petitioners was that neither possession had been taken by the respondents nor any compensation paid. The stand of the respondents was that there were encroachments on the land that prevented the respondents from taking possession. On 22nd May, 2001, this Court passed the following order:

22.05.2001

Present: Mr. N.S. Vashisht, Advocate for the petitioner.

Mr. Sanjay Poddar, Advocate for the respondent.

M No 5522/2000 in C.W. No. 3250/1997

It appears that there are encroachments on the land subject matter of this petition and for this reason the Government has not been able to take possession of the land inspire of the fact that an award with respect to it was made in the year 1987.

Counsel appearing for the respondents submits that according to his instructions the petitioner has encouraged the unauthorized occupation/encroachments. He prays that the petitioner be directed to file an affidavit to the effect that she or anyone else on her behalf has not allowed the encroachments on the land in question.

Counsel for the petitioner has filed an affidavit of the petitioner in the court in response to the prayer made by the counsel for the respondents. A copy of the affidavit has been supplied to the counsel for respondent in the court. He requests for time to seek instructions and to take further appropriate actions in the matter of taking possession of land.

Adjourned to 25.7.2001.

4. Thereafter, at the hearing on 29.11.2001, it appears that learned Counsel for the respondent No. 3(DDA) contended that the compensation would not become payable unless and until the possession was delivered by the petitioner to the DDA free from all encumbrances. Thereupon, the court posed a query with regard to withdrawal of acquisition proceedings. Learned Counsel for the DDA responded that a decision was required to be taken by the competent authorities as to whether in the facts and circumstances of this case, the respondent would withdraw from the acquisition proceedings. Thereafter on 8.1.2002, Rule DB was issued. On 6.7.2002, a counter-affidavit was filed by the Respondent No. 3-DDA, paras 6 to 10 of which read as under:

6. That it is submitted that the instant case is one of the cases where after acquisition, the land has got encroached with the consent of the Land owner, who have in all probability sold their land to subsequent purchasers.

7. This has resulted in a peculiar situation, whereby the Land owners are aiming at getting a doubt i.e. benefit of claiming compensation even after selling the land thereof, resulting in the Authorities not being able to take the vacant possession of the land.

8. The answering respondent is finding itself in a situation, resulting in double jeopardy to the DDA, whereby the Govt. is required to pay the compensation amount and yet, not got the possession of the land. The interest of DDA is in no

way being secured.

9. It is submitted that the Land owners are supposed to hand over the land to the LAC before claiming compensation of the acquired land. The payment of compensation should be made to the land owners, only after the possession is taken over by the LAC u/s 16 of the Land Acquisition Act.

10. It is further submitted that the land in question is a part of Sangam Vihar unauthorized colony which is a part of 1071 unauthorized colony which are under consideration for regularization. It has been decided that land of these colonies will be taken over only after the matter is examined by the committee constituted on the subject.

5. The matter was thereafter heard finally on 5.3.2002. The Court was conscious of the fact that it was difficult for the DDA to take possession. At the same time, the Court noticed that the respondents were not agreeable to withdraw from acquisition. Thereafter, the Court further observed and directed as under:

In the facts and circumstances of the case, no other or further order or direction is required to be issued except by directing the respondents to proceed in accordance with law in obtaining possession of the acquired land within a period of three months from today and to pay the compensation becoming due and payable in accordance with law within a period of four weeks thereafter. It is hereby made it clear that we are not adjudicating in these proceedings the right of the petitioner or anyone else to receive compensation since the same is not an issue. The right to receive compensation will have to be decided by the Collector only in accordance with law.

6. It appears that thereafter on 17.7.2003 the DDA filed an application being CM No 260/2004. By this application, the DDA sought modification of the order dated 15.7.2002 and for directions to the petitioner to co-operate with the respondents so that the compensation could be released to her. In this application, the DDA pointed out there were about 250 structures of residential and commercial nature including some double storeyed structures on the land. In particular, it was stated in paras 3 to 7 as under:

3. That the answering respondent wishes to place certain facts for consideration of this Hon''ble Court on the basis of which, modification is being sought from the Hon''ble Court.

4. This land is part of 13 villages of South Delhi, which was notified in 1980. The land forms part of an unauthorized colony known as Sangam Vihar. The land in question falls in G-Block and H-Block of Sangam Vihar Colony.

5. Demolition of these structures to taken vacant possession of land has been found not to be possible because of site conditions and also the policy of the Government about regularization of unauthorized colonies under consideration.

6. It is reported that there are 250 structures of residential and commercial

nature including some double storeyed structures on this land. This land must have been sold by the land owner or his family members because no person allows his land to be encroached upon. Collection of some documents at site and a General Power of Attorney shows that a piece of land has been sold by one Pandit Bram Prakash, s/o Sh. Mool Chand, r/o F-42, Kamla Nagar. The petitioner i.e. Smt. Kamla Sharma is the widow of Sh. Bram Prakash r/o F-46, Kamla Nagar. This clearly shows that this part of the land has been sold by her husband. Detailed investigation will establish that the land has been sold by the petitioner or her family members and thus, interest in the land has already been transferred by the petitioner through her representations to some third party. On the one hand, they have sold the land and on the other hand, they are trying to get compensation by misleading the Court. Government, Therefore, can not pay compensation for the land, which has not been transferred/handed over by the petitioner.

7. Otherwise also, in 1071 unauthorized colonies, demolition will not be possible and even recovery will not be possible because of the site conditions and the atmosphere over there.

7. In this application, a reference was made to the orders of this Court in WP (C) 4771/93 (Common Cause v. Union of India) relating to regularization of unauthorized colonies, where it had been directed that till the modalities in terms of guidelines for regularization of colonies were finalized, interim orders regarding construction/demolition shall remain operative.

8. Following this application by the DDA, the petitioner on 28.11.2003 filed an application being CM No. 261/2004 for a direction to the respondents to pay compensation in compliance with the order dated 15.7.2002, failing which the respondents should be directed to denotify/withdraw from the acquisition proceedings.

9. Even while these applications were pending, on 28.5.2004 the petitioner moved a further application being CM No 8230/2004 bringing to the notice of this Court that Smt. Kamla Sharma, the petitioner had died on 6.12.2003 and requested that the legal heirs of the deceased Smt. Kamla Sharma be placed on record. Para 3 of the said application, reads as under:

That Smt. Kamla Sharma left behind the following Class-I legal heirs:

A. Raj Kamal Sharma - 54 years. S/o Smt. Kamla Sharma R/o F-46, Kamla Nagar, Delhi 110 007. B. Neel Kamal Sharma - 51 years. S/o Smt. Kamla Sharma R/o F-46, Kamla Nagar, Delhi 110 007. C. Shwet Kamal Sharma - 50 years. S/o Smt. Kamla Sharma R/o 6/16, Roop Nagar, Delhi 110 007. D. Madhu Kamal Sharma - 47 years. S/o Smt. Kamla Sharma R/o D-631, C.R. Park, New Delhi

10. In reply to the petitioner's application CM 261/2004, an additional affidavit dated 22.7.2004 was filed by Mr. Suresh P.Padhy, Director (Land Management)

Head Quarter, DDA in which he has stated as under:

3. That it is further stated that the land in question has been sold by the petitioner through her husband Sh. Bram Prakash and the attorney was executed in favor of Sh. Chand Singh by Bram Prakash.

4. That the answering respondent has further clarified the current position of the land in question and it was again confirmed by the answering respondent that the land in question has been sold off by the petitioner. A copy of the Akshajara and joint survey report verified by the LAC/L&B and DDA is attached to the application.

5. That the answering respondent had already filed the General Power of Attorney execute by Sh.Bram Prakash Sharma, husband of the petitioner with respect to the land in question to various persons.

6. That it is not out of place to mention here that in Sangam Vihar where the land in question falls under 1071 unauthorized colonies in which the necessary directions have already been passed by the Hon"ble Court on the Writ Petition (Civil) No. 4771/93 titled as "Common Cause v. UOI and Ors.".

11. On 4.11.2004 this Court allowed CM 8230/2004 and permitted the legal representatives of the deceased Smt. Kamla Sharma to be brought on record. As regards CM No 260/2004, the application filed by the DDA, this Court felt that since the direction given in the order dated 15.7.2002 had to be complied with initially by the LAC, this application by the DDA was misconceived and accordingly dismissed it as such. As regards CM No 261/2004 filed by the petitioner, this Court passed the following orders:

In view of order dated 15.7.2002, no further orders are called for in this application. However, we issue notice to the Land Acquisition Collector (South) to show cause as to why appropriate action be not taken against him for disobedience with the order passed by this Court on 15.7.2002 while disposing of the writ petition, by means of an affidavit, which shall be filed on or before the next date of hearing.

List for further orders on 13.1.2005.

12. One of the questions which arose at this stage was whether the petitioner was in position to hand over the possession of the land in question to the respondent-DDA free from encroachments and encumbrances.

13. On 12.1.2005, a detailed affidavit was filed by A.K. Singh, ADM/LAC (South), in reply to the show-cause notice issued by this Court vide order dated 4.11.2004, setting out that the various steps taken by the DDA to take possession of the land in question in coordination with the DDA. This affidavit also pointed out that LAC has received a letter dated 22.7.2004 from the Jan Kalyan Seva Samiti (through its President Dr.Rajesh Agarwal) drawing his attention to the order dated 21.2.2003 by a learned Single Judge of this Court in

Civil Writ Petition No. 449/2003 filed by it whereby the DDA has been restrained from carrying out the demolition/dispossession of structure/residential houses standing on Khasra Nos. 1826/1499/1500/1500 min and 1501 forming part of H Block Sangam Vihar, New Delhi. In the said letter dated 22.7.2004, a copy of which was enclosed to the affidavit dated 12.1.2005 filed by A.K.Singh, the Jan Kalyan Seva Samiti, located in Sangam Vihar, stated:

All the residents of the said colony are bonafide purchasers of the land. Most of the signatories in the present representation have purchased the lands from Shri Brahma Prakash Sharma (since deceased) resident of F-50, Kamla Nagar, Delhi and his wife Kamla Sharma and Raj Kumar Sharma.

14. On 14.2.2005, an application being CM No. 2388/2005 was filed by Dr. Rajesh Agarwal and 33 others, all claiming to be residents of Sangam Vihar and seeking impleadment in the present proceedings. The affidavit in support of this application has been sworn by Dr. Rajesh Agarwal in his capacity as President of the Jan Kalyan Seva Samiti. In this application, it was, inter alia, prayed that this Court should recall the order dated 15.7.2002 passed in WP(C) 3250/97 and also grant stay of that order in the meantime. It was asserted that the petitioner had divested herself, through her predecessor-in-interest, from the ownership of the land and that each of the applicants seeking impleadment were bonafide purchasers of the land in question. It was further asserted in the application that the petitioner, her husband and his attorney had carved out a whole colony and sold portions of the land in question to the several purchasers. The application (CM No 2388/2005) annexed the photocopies of title deeds, powers of attorneys, documents etc. Also enclosed a copy of a power of attorney dated 27.12.1984 was executed by Raj Kamal s/o Shri Brahm Prakash r/o B-90, Ghantagarh, Subzi Mandi. By this document Raj Kamal purported to appoint, nominate, constitute and authorize to Shri Nazer Alam and Qaiser Alam as his true and lawful attorney in respect of the land measuring 30 sq.yars comprises in Khasra No. 1499 situated in the revenue estate of Village Tughlakabad, New Delhi. Copies of the numerous documents annexed to this application including powers of attorney and receipts in respect of these khasra nos. show that these lands were sought to be sold by the powers of attorney holders. It also shows that these lands were transferred albeit illegally from one hand to the other in succession.

15. On 16.2.2005 counsel for the petitioner informed the Court that the petitioners were not in possession of the land and, Therefore, the question of their handing over the possession of the LAC does not arise. It was submitted that the LAC could take recourse to the law to take possession.

16. On 23.2.2005 when the CM 2388/2005 was listed in this Court, notice was issued and accepted by the non-applicants in the said application. The order sheet indicates that the earned counsel for the petitioner was present at the said hearing.

17. On 23.3.2005 a further affidavit was filed by A.K.Singh, ADM/LAC (South)

where the difficulties in the LAC/taking the possession of the land were explained. It was stated that the petitioner had not come to the Court with clean hands. It was stated in the paragraphs 9,10,11 and 12 of the affidavit, as under:

9. That the stand so far taken by the petitioner is not correct and that petitioner deliberately made false and misleading statement of facts in this Hon''ble Court. It has come to the notice that the petitioners have carved out an unauthorized colony on the agricultural land unauthorized and have sold the same in small plots to various persons on agreement to sell and power of attorney and have received the considerations. The said Shri Raj Kamal, one of the petitioners, has executed some of the documents. These documents appear to have been executed in the year 1984 and on this land an authorized colony namely Sangam Vihar has come up. This colony is one of the colonies out of 1071 colonies regularization of which is pending a final decision at the government level. It is submitted that as per the orders and decisions taken by this Hon''ble Court in various proceedings including Common Cause case in WP (C) No. 4771/1993 and also by the Government, the structures existing in such a colony are not to be demolished and the occupants are not be dispossessed.

10. That a writ petition entitled as Jan Kalyan Sewa Samiti v. Government of NCT of Delhi and others CWP 449/2003 was filed and in this petition, the petitioner claimed regularization of the colony. On this writ petition, this Hon''ble Court vide order dated 21.2.2003 inter alias directed that till the decision for regularization is taken the respondents therein shall not apply for taking any action including dispossession or demolition other than to ensure the directions given therein. These petitioners have also filed an application in these proceedings for necessary orders and this Hon''ble Court has issued notice.

11. It is submitted that along with the application they have also filed copies of certain documents suggesting that the petitioners herein have sold the land in question long ago in the years 1984 and received the consideration. They allowed an unauthorized colony to come up and thereafter have been making false and misleading statements in this Hon''ble Court. The order dated 15.7.2002 was passed by this Hon''ble Court in these circumstances and due to the misleading statement made by the petitioner. It is also submitted that the petitioner was neither owner nor in possession of the land in question and did not have any subsisting right to seek any discretionary relief from this Hon''ble Court. It is also submitted that the petitioners are guilty of suppression of material facts and have thus rendered themselves disentitled to any discretionary relief from this Hon''ble Court. In similar circumstances the Hon''ble Supreme Court in the case of DDA v. Shri Shanti Narain Bhatnagar Civil Appeal No. 1284/1998 vide order dated 27.2.1998 non-suited the petitioner and declined to order payment of compensation.

12. That from the above submissions it is clear that it is the petitioners who have created the third party rights initially and carved out a colony. they have created the obstructions in the taking of possession. They have been making false and

selective statement to suit their purpose at the relevant point of time in this Hon''ble Court. In such circumstances the petitioners have rendered themselves ineligible for grant of any discretionary relief.

18. A reference was made to the order dated 27.2.1998 of the Hon''ble Supreme Court in Delhi Development Authority v. Shanti Narain Bhatnagar and Ors. according to which the requisite affidavit had to be filed by the landowner stating that there were no encroachments on the land and that no part of the land had been sold or third party rights created as a pre-condition to claim compensation. The Hon''ble Supreme Court was categorical in holding that if the land owners were not prepared to file such an affidavit, they were not entitled to any relief.

19. The matter was kept pending and adjourned for 14.12.2005. The counsel for the petitioner reiterated that the directions contained in the order dated 15.7.2002 had not been complied with and that Collector neither released the payment to the petitioner nor deposited the amount in this Court. These applications were heard finally on 17.7.2006.

20. From the detailed narration of the facts hereinabove, it appears to this Court that even at the time of filing the original writ petition on 7.8.1997, the petitioner had suppressed from this Court the fact that the land in question had been carved out and sold to the several individuals beginning on 15.2.1984. Despite several affidavits before this Court by the respondents placing on record facts and documents to show that the husband of the deceased petitioner, her son and power of attorney holders had sold off the land in question, these facts and documents remained uncontroversial by the petitioner. Reference to these illegal sales of the land in question by the petitioner was made not only in the application being CM No 260/2004 filed by the Jan Kalyan Seva Samiti but in the numerous affidavits filed by the DDA and LAC dated 6.7.2002, 22.7.2004, 12.1.2005 and 23.3.2005, all these affidavits/documents have remained on the record of this Court since 6.7.2002 and have not been specifically denied at any stage by the petitioner and later by her legal representatives.

21. What has disturbed this Court is that the petitioner has chosen not to controvert these affidavits which have remained on record for two years. Despite repeated hearings, the petitioner did not even seek an opportunity from the Court to do so. All these affidavits were served on the petitioner. These facts were mentioned in the application being CM No 2388/2005 filed by the residents of Sangam Vihar colony and in several documents showing that the son of the petitioner himself executed power of attorneys in December, 1984. Copies of these documents were annexed to this application. Notice on this application was issued in the presence of the learned Counsel for the petitioner. Therefore, the learned Counsel for the petitioner knew very well the fact about all this application and affidavits for well over a year.

22. The conduct of the petitioner is most reprehensible particularly since the petitioner has persisted with the claim for the compensation of land in respect of

a land which has actually been sold. The land has been parceled and sold out as plots even before the petition was filed. The petitioner persisted with the deliberate concealment of facts throughout the proceedings and even at the stage of final hearing of the writ petition which was disposed on 15.7.2002. But for these subsequent applications, the extent of deliberate concealment of vital facts may never have come to light. When it became plain to the petitioners that they could not hand over possession of the lands in question and file undertakings as mandated by the order of the Hon''ble Supreme Court in Shanti Narain Bhatnagar (supra), they simply informed this Court that they are not in possession but still claimed that they must be paid compensation.

23. This was compounded by the fact that the legal representatives of the petitioner moved an application for substitution after her death and one of the legal representatives is none other than Raj Kamal Sharma, son of the petitioner, who himself has executed the general power of attorney in December, 1984 facilitating the illegal sale of the parcels of land carved out from the lands in question. This has spawned a whole unauthorized colony called Sangam Vihar.

24. It is a matter of great concern that the process of law has been sought to be subverted by deliberate concealment of facts by the petitioners seeking relief under the discretionary jurisdiction under Article 226 of the Constitution of India. The facts of this case leave us no doubt that the petitioners have not come to the Court with clean hands. They have abused the process of law and sought to mislead the Court from time to time. They have failed to state the full facts and have deliberately concealed material facts. They are not entitled to any relief whatsoever.

25. On the above reasons, CM No 261/2004 is dismissed with costs, which we quantify at Rs. 20,000/- These costs will be deposited by the petitioners with the Delhi

High Court Legal Services Committee within four weeks from today.

26. The compensation payable in respect of the acquisition of these lands will be deposited in a separate account by the LAC and as and when the DDA is able to obtain possession the compensation will be distributed in accordance with law. It is made clear that the DDA is free to take possession, on an as-is-where-is basis, in accordance with law.

CM No 2388/2005

27. As regards the CM No. 2388/2005 filed by Dr. Rajesh Agarwal and others, we are not inclined to accept their plea for impleadment in the disposed of writ petition at this stage. It requires to be noticed that these very applicants had earlier filed WP(C) 449/2003 under the banner of the Jan Kalyan Seva Samiti, and a learned Single Judge had passed an order dated 21.2.2003 to the effect that the respondent shall not take any action including dispossession or demolition till the issue of the regularization of the Sangam Vihar Colony is

decided. However, that direction was given subject to the individual residents of the colony filing of undertakings before the Court within a period of four weeks stating that they will not carry on any further construction and remove any construction made after 3.11.1977, use the property only for residential use and are not carry on any commercial activity, nor occupy any open area and not create any third party interest or part with possession of the property till the decision on the issue of the regularization of the colony. It was made clear in the said order that the protective orders/ directions would be applicable only to such of the occupants who will file the necessary undertakings. For some reason, the fact of this writ petition having been filed, the order dated 24.2.2003 having been passed thereon, is not mentioned in the application being CM No 2388/2005 although the applicant No. 1 Dr. Rajesh Agarwal has filed an affidavit in support of the said application where he describes himself as President of the Jan Kalyan Sewa Samiti. Be that as it may, we make it clear that the protective orders in respect of these applicants would be valid for such time and upon such conditions as indicated in the order dated 21.2.2003 passed by the learned Single Judge. Such of those who have not filed undertakings as required by the said order will not be entitled to any protection whatsoever. We expect that all the applicants in CM 2338/2005 and the respondents herein will strictly abide by the order dated 21.2.2003 passed by the learned Single Judge of this Court in WP (C) 449/2003. This Court will take a strict view of any of the applicants trying to over-reach the orders of the Court and create a situation where the due process of the law is thwarted.

28. Before we conclude, we wish to advert the present scenario, perhaps not peculiar to Delhi where land acquisition proceedings are brought to naught by the conduct of unscrupulous elements who have a little respect for law or the orders of the Court. The instant case itself shows that even before the declaration u/s 6 was issued on 6.6.1985, the land owners already started carving out the land into plots and selling them to unwitting buyers. Even while the Award dated 18.6.1987 was being issued, unauthorized constructions were already underway. Over a period of 20 years now an entire unauthorized colony called Sangam Vihar has emerged. This could not have been happened without the connivance of the land owners, the land mafia and of course, those entrusted with the responsibility of enforcing the law. The fact of subversion of the law in the present case came to light only on account of the applications filed subsequent to the disposal of the writ petition.

29. There are a number of such unauthorized colonies. As of 1995 there were over 1071 of them in Delhi. In many of the cases brought to this Court by the residents of such colonies a reference is invariably made to an order dated 27.2.2001 passed by a Division Bench of this Court in Common Cause v. U.O.I. 90 (2001) DLT 572 by which this Court directed in a batch of matters that till the modalities in terms of the guidelines for regularization of unauthorized colonies are worked out, interim protection granted in those petitions would remain operative. Citing this order, many of the residents of these unauthorized colonies

have obtained certain interim protection orders in the form of interim stay of dispossession subject to the fulfillment of the certain conditions. The, Common cause order dated 27.2.2001 was clearly intended to be a stop gap measure. The indefinite continuation of the status quo brought about by that order is not conducive to anyone; not to residents of these colonies who are uncertain about their status, not to the Government which is charged the responsibility of taking a decision on whether or not to regularize these colonies and not to the planned development of Delhi. The delay in deciding this issue, however delicate or sensitive it might appear, only postpones the effective implementation of the rule of law. With every day's delay, further illegal constructions are bound to come up in these and other unauthorized colonies under the shelter of these interim protective orders. What this case reveals is that there does not appear to be any effective monitoring mechanism to find out if the undertakings on the basis of which the interim orders have been issued by this Court are in fact being complied with. We are constrained to observe that the DDA will have to be far more vigilant than it is at present. Whenever it (DDA) finds that the undertakings have been violated, it should come to this Court to seek either the vacation or the modification of the interim orders so that the violation is not allowed to persist.

30. There is yet another aspect which requires certain directions to be issued to the DDA. There invariably is a difficulty in the DDA taking possession of land on which an unauthorized colony has developed during the pendency of land acquisition proceedings. The land owners who have unscrupulously sold off the land to several individuals have no interest in complying with the requirement of the law. In other words, they are neither willing nor able to hand over possession of the land to free from all encumbrances or encroachments. As far as the DDA is concerned, unless it obtains possession in terms of Section 16 of the Act, it cannot be expected to pay compensation for such land. Residents of these unauthorized colonies who have purchased the plots, perhaps with their hard earned money and unaware of the illegality attaching to such transactions, are naturally resistant to giving up possession even after they become aware of the illegality. As a result, they seek the interim protection of this Court. The Hon''ble Supreme Court in *Shanti Narain Bhatnagar* (supra) mandated that if the land owner was not prepared to file the requisite undertaking that he is willing to hand over possession of the land being acquired from all encumbrances, he would not be entitled to any discretionary relief whatsoever. We reiterate this mandate and direct that the DDA should insist on strict compliance with the directions of the Hon''ble Supreme Court in the *Shanti Narain Bhatnagar* (supra). Even at the early stage of challenge to the land acquisition proceedings and before the passing of any status quo order by the Court, the DDA would be duty bound to draw the Court's attention to directions of the Hon''ble Supreme Court in the *Shanti Narain Bhatnagar* case and require the land owners to file the requisite undertakings that the land has not been encroached upon or illegally sold off and that the land owners themselves would be prepared to hand over the

vacant and peaceful possession. This could also be cross-verified by an inspection by the DDA itself and perhaps, if contested, by a Court appointed Commissioner. Unless this is done at the early stage of the proceeding, the taking over of the possession of such land is bound to be further complicated with the passage of time.

31. With the above direction, CM No 2388/2005 stands disposed of.

32. Final Order:

CM No 261/2004 is dismissed with costs of Rs. 20,000/- in terms of paras 25 and 26 hereinabove. CM No 2388/2005 is disposed of with the directions in paras 29 and 30 hereinabove. Accordingly, both applications are disposed of.

33. It is directed that a copy of this judgment be sent to the Chief Secretary, Govt. of NCT of Delhi, and the Vice Chairman DDA for considering the appropriate action in accordance with the directions given hereinabove.