

(2017) 10 DEL CK 0107

In the Delhi High Court

Case No : Civil Writ Petition No. 1461 Of 2014, Civil Miscellaneous No. 3040 Of 2014

Monu Singh

APPELLANT

Vs

Land Acquisition Collector & Ors

RESPONDENT

Date of Decision : 30-10-2017

Acts Referred:

Delhi Land Reforms Act, 1954 — Section 81, 150(3)(a)

Delhi Development Act, 1957 — Section 22, 22(1)

Delhi Municipal Corporation Act, 1957 — Section 507

Citation : (2017) 10 DEL CK 0107

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Bhagwat Prashad Gupta, P. Rajan, Siddharth Panda, Ajay Verma, Diviani Khanna

Final Decision : Dismissed

Judgement

Indermeet Kaur, J

1 The petitioner is the owner of certain lands contained in khasra No.16, Village Kotla. The total land comprised in khasra No. 16 was 37 bigha and 19 biswas. The dispute raised by the petitioner in the present case relates only to 16 biswas of land. His submission is that this is a private land. It belongs to the petitioner. The petitioner is in possession of the aforementioned land.

2 Notification dated 05.01.1977 had been issued qua the aforementioned village including the present khasra i.e. khasra No. 16. 23 bigha of land was however excluded from the Award which included 2 bigha and 19 biswas which was under road alignment and 9 biswas under temple/Qabristan. Possession of this land could not be taken because it was built up. 16 biswas of land which was always in possession of the petitioner was in fact a private land. Learned counsel for the petitioner has placed reliance upon a Notification dated 12.12.2007 issued by the Urban Development Department and that part which relates to private land

which inter-alia reads as under:-

"Private Land: All lands vested in the Gaon Sabha under Section 81 of the Delhi Land Reforms Act, 1954 where the physical possession is with the original landowners".

3 Submission being that the land which has vested in the Gaon Sabha of which physical possession had not been taken from the original land owner is a private land. This private land has now to revert back to the petitioner. The stand of the respondent that this land has been put at the disposal of the DDA is mis-placed. Accordingly a prayer has been made that this 16 biswas of land which is still in possession of the petitioner be permitted to be retained by him and the respondent be restrained from interfering with his peaceful possession.

4 Counter affidavit has been filed by the respondents. The contesting respondent is respondent No.2/DDA. The stand of respondent No.2 is that in terms of a Notification dated 05.10.1989 issued by the Land and Building Department of the Government of NCT of Delhi by virtue of operation Section 150 (3) (a) of the Delhi Land Reforms Act (in short 'DLRA'), all Gaon Sabha lands of the village have vested in the Central Government and in terms of Section 22 (1) of the Delhi Development Act, 1957, the Lt. Governor has placed these land at the disposal of the DDA. Attention has also been drawn to the schedule attached to the Notification. This includes the land in the present village i.e. land at village Kotla. Attention has been drawn to the Notification dated 23.04.1982 mentioned in the present Notification which was Notification under Section 507 of the Delhi Municipalities Corporation Act. Learned counsel for the respondent points out that this disputed land admittedly being Gaon Sabha land under Section 150 (3) (a) of the DLRA (in terms of the Notification dated 05.10.1989 read with Section 22 of the Delhi Development Act) has now vested with the DDA. In the counter affidavit of the respondent, the respondent has also drawn attention to the suit which has been filed by the petitioner i.e. Suit No. 247/2011 titled Monu Singh Vs. MCD & Anr. This was a suit for permanent injunction. The prayer made in the suit has been highlighted in the counter affidavit. A perusal of this prayer shows that the prayer made in this suit is identical to the prayer made in the present petition. This suit was withdrawn by the petitioner on 04.02.2012 in view of the statement of the MCD which was to the effect that the suit property pertains to the DDA.

5 Learned counsel for the respondent rightly points out that this suit had been withdrawn by the petitioner also fully well knew that this property belongs to the DDA. The petitioner by filing the present petition is in fact espousing the same cause of action. If the petitioner in the year 2012 had become aware of the fact that this suit property pertains to the DDA, it was incumbent upon him to have impleaded the DDA in that suit and taken the suit to its logical end. He however chose to withdraw this suit.

6 This Court endorses this submission of the respondent. This Court notes that

this land admittedly belongs to the Gaon Sabha. It is not the case of the petitioner that land in khasra No. 16 was not Gaon Sabha land. The khasra girdawri attached along with the present petition also substantiates that this land in khasra No. 16 was with the Gaon Sabha. The case of the petitioner however is that this land was in his possession and in terms of Notification dated 12.12.2007, it has become a private land and its possession cannot be disturbed. This Court is not in agreement with this submission of the petitioner. Notification dated 05.10.1989 by virtue of operation of Section 150 (3)(a) of the DLRA has placed all Gaon Sabha Lands with the Central Government which includes the present land i.e. land at village Kotla. In terms of powers under Section 22 (1) of the Delhi Development Act, 1957, the Lt. Governor has placed this land at the disposal of the DDA. All this forms part of Notification dated 05.10.1989. The Notification dated 05.10.1989 is not under challenge. This Notification also makes a reference to the earlier Notification dated 23.04.1982 which was a Notification under Section 507 of the DMC Act by virtue of which the land which had become urban would fall outside the purview of the DLRA. The petitioner is even otherwise placing reliance upon a subsequent Notification which is the Notification dated 12.12.2007 which speaks of land vested in the Gaon Sabha under Section 81 of the DLRA. This land had not vested in the Gaon Sabha under Section 81. The Notification dated 05.10.1989 has spelt out the provisions of Section 150 (3)(a) of the DLRA. This land having placed at the hands of the DDA and the petitioner fully knowing this fact in 2012 when he chose to withdraw the suit at a stage when he learnt that this land was belonging to the DDA has now no legs to stand upon.

7 The case of the petitioner must necessarily fail. Petition is without any merit. Dismissed.