

(2017) 11 DEL CK 0782

In the Delhi High Court

Case No : Civil Writ Petition No. 7275, 7278 Of 2016, Civil Miscellaneous
Application No. 29945, 29949 Of 2016

Prem Singh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 01-11-2017

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6
Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And
Resettlement Act, 2013 — Section 24(2)

Citation : (2017) 11 DEL CK 0782

Hon'ble Judges : S. Ravindra Bhat, J;R.K. Gauba, J

Bench : Division Bench

Advocate : Sumit Bansal, Richa Oberoi, Prateek Kohli, Siddharth Panda, B.S.
Shukla, Shambhu Chaturvedi, Pawan Mathur

Final Decision : Dismissed

Judgement

S.Ravindra Bhat, J

1. In both these petitions, the relief claimed is identical which is for a declaration that acquisition proceedings in respect of land measuring 1 Bigha 5 Biswas forming part of Khasra No.253 min (3-16) (hereafter mentioned as "suit property") in the revenue estate of Village Saidulajaib, New Delhi lapsed in view of the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as "2013 Act").

2. In W.P.(C) 7278/2016, the petitioner claims to have acquired the properties pursuant to Power of Attorney executed on 31.05.2007. He has also relied upon the partnership deed dated 01.02.1989 of one M/s Jac Brothers, Amritsar and Khatoni of 1998-99.

3. In W.P.(C) 7275/2016, the petitioner claims title on the basis of other

documents, i.e., Power of Attorney document dated 19.08.2011 executed by Jasjit Walia of Amritsar in favour of one Jagan Lal, resident of Badar Pur and a second registered Power of Attorney dated 27.08.2011 executed by Jagan Lal in his (petitioner's) favour. Both these Power of Attorneys (in W.P.(C) 7275/2016) were registered in Uttar Pradesh. The common contention of the petitioners is that the respondents have violated the legislative mandate of Section 24 (2) of the said Act. In these cases the suit lands along with a large tract of land was notified for the planned development of Delhi, i.e., a public purpose under Section 4 of the Land Acquisition Act, 1894 on 05.11.1980. On 21.05.1985, a declaration under Section 6 of the said Act was issued. After considering all the materials produced before him as well as the contentions of the land owners, the Collector made his Award on 20.05.1987 (Award No.13/87-88). It is alleged that the petitioners are in physical possession of the suit lands and till date have neither been paid nor offered any compensation. Learned counsel urges that in these circumstances having regard to the law declared by the Supreme Court in *Pune Municipal Corporation v Harakchand Misrimal Solanki* 2014 (3) SCC 183, *Union of India and Ors. v. Shiv Raj and Ors.*, (2014) 6 SCC 564 and number of subsequent rulings, the acquisition is deemed to have lapsed. It is highlighted that the petitioner's rights to secure the declaration in terms of Supreme Court judgment cannot also be denied in view of the later judgment of the Supreme Court in *Government (NCT of Delhi) v. Manav Dharam Trust and Another* (2017) 6 SCC 751.

4. Mr. Sumit Bansal, learned counsel highlighted the observations of the Supreme Court in *Manav Dharam Trust* (supra) in the context of "persons interested", particularly the following observations: -

"26. The main purpose of the 2013 Act is clearly stated in the preamble which reads as follows:

"An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and 30 Page 31 resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto."

There is a clear indication that the Act proposes to protect the interest of those persons, among others who are affected by the acquisition. The subsequent purchasers/successors, etc., in the cases before us, are all people affected by the acquisition, and therefore, also they are entitled to seek a declaration on lapse

under the 2013 Act.

27. The High Court of Karnataka at Bengaluru in *Suryaprakash and others v. State of Karnataka and others*⁷ has considered a situation of lapse and locus standi of the subsequent purchaser to file a writ petition for a declaration on lapse, though not under Section 24(2) of the 2013 Act. At paragraph-16, it has been held:

"16. ... the principle that transferee of land after the publication of preliminary notification cannot maintain a writ petition challenging the acquisition, cannot be made applicable to a case where the acquisition itself has been abandoned and has stood lapsed due to efflux of time on account of the omission and inaction on the part of the acquiring authority, particularly because, it is because of the lapse of time and the abandonment of the acquisition, right accrues to the original owner to deal with his property including by way of the sale and the purchaser will acquire right to protect his interest. Hence, the judgment in the case of *Rajasthan State Industrial Development and Investment Corporation v. Subhash Sindhi Cooperative Housing Society, Jaipur and others* (2013) 5 SCC 427, will have no application to the facts of the present case."

We are of the view that this decision, in principle, applies to the facts of these appeals as well.

28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power of attorney, etc., are all persons who are interested in compensation/land owners/affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondents/writ petitioners do not have any locus standi."

5. Counsel for the GNCTD relied upon the averments made in the counter affidavit and stated that the suit lands as well as several others acquired lands in Village Saidulajaib were taken possession of long ago and handed over to the beneficiary department, i.e., Delhi Development Authority on 17.07.1987. It is also contended that the recorded land owners were paid amounts through deposits in the Court. It is stated that in W.P.(C)7275/2016, the recorded owners were Kavar Jai Singh, Ajai Kumar and Kartar Singh and that the recorded owners in W.P.(C)7278/2016 were Kuldeep Singh, Rajender Singh, Balbir Singh, Chunni Lal and Smt. Chanderwati.

6. It is contended that the petitioners in both writ petitions claimed to be entitled to the declarations sought for in the proceedings; however, they are unable to establish or prove their locus in respect of the suit lands. It is argued that the observations in *Manav Dharam Trust* (supra) would be applicable if it is shown that the transfers took place contemporaneously with the acquisition process or immediately within proximate time, after its completion. It is stated that in the

present case, the Award was made in 1987; possession too was also taken over at that stage. The petitioners in both proceedings claimed right, title and entitlement on the basis of Power of Attorneys executed not by the land owners, but by third parties. The link or connection between the original land owners and such third parties has neither been established nor even disclosed to the Court. In these circumstances, say the respondents, the relief of declaration cannot be claimed in these proceedings. The original land owners or their transferees come forward to the Court with the grievance that if compensation has not been paid to them, then alone, would the Court be justified in granting the declarations sought for.

7. The petitioners claim that neither possession was taken of the suit lands nor was compensation paid. So far as possession is concerned, there appears to be no dispute now that in both the cases possession was taken over on 17.07.1987. The Court notices that Khasra no.253 Min is a large tract of over 11 bighas. The petitioners have not disputed the averments of the respondents with respect to the possession. What is material, therefore, is whether compensation was paid to the land owners or others having right, title and interest in the land. It is here that the petitioners emphasize that they are lawful subsequent transferees and entitled to claim compensation. The Court is not persuaded by their submissions for more reasons than one. Firstly, the documents produced by the petitioners in both set of cases show that their right or claim to the lands is based upon General Power of Attorneys (albeit registered) executed by entirely third parties. These third parties' right to the land or right to receive compensation is not borne out of the record. Secondly, the Power of Attorneys relied upon in both the cases are not contemporaneous to the acquisition process but were executed more than two decades thereafter - in one case in 2007 and in the other in 2011. In these circumstances, even if it were to be assumed (though no such conclusion can be drawn in the present case) that the land owners in fact had parted with their title or interest, in the absence of the Notification or formal notice to the authority with respect to such passing of interest, the petitioners cannot claim any right to receive compensation. Interestingly, the two sets of documents relied upon, i.e., Power of Attorneys are entirely silent about the completed acquisition process in 1987; even the rights to receive compensation has not been conferred through them. Lastly, the only document having any connection with the lands is the khatoni or other such revenue documents for the year 1998-99. These per se do not even establish how some of the predecessors came to acquire any interest in the lands. In the absence of Section 4 or Section 6 Notifications containing the names of the land owners or the revenue records establishing that the recorded owners were none other than the predecessors of the petitioners, it cannot, be, therefore, concluded that they have any manner of right, title or interest in the suit lands or that they could have claimed compensation for it.

8. In view of the above conclusions it is held that the reliefs claimed in these petitions cannot be granted. The writ petitions are, therefore, dismissed.