

**(1999) 02 DEL CK 0057**  
**In the Delhi High Court**  
**Case No : C.W.P. No. 2857 of 1998**

Ram Pal

APPELLANT

Vs

Lt. Governor of Delhi and Others

RESPONDENT

**Date of Decision :** 25-02-1999

**Acts Referred:**

Land Acquisition Act, 1894 — Section 10, 11

**Citation :** (1999) 49 DRJ 297

**Hon'ble Judges :** Chander Mohan Nayar, J

**Bench :** Single Bench

**Advocate :** Surat Singh, Javed Ahmad and Sunil Kumar, for the Appellant;  
Ravinder Sethi and Manish Goyal, for the Respondent

**Final Decision :** Dismissed

## Judgement

C.M. Nayar, J.—The present petition is directed against the respondents for issuance of a writ of mandamus for commanding the respondents to do their public duty of not disturbing the peaceful possession of the land of the petitioner except according to due process of law and after giving a notice of reasonable time and for further relief that the respondents be directed to pay an exemplary amount of compensation for harassing the petitioner by sending officers etc. to dispossess them. The Notifications which are the subject matter of the present petition were upheld by a Full Bench of this Court reported as Roshanara Begum v. Union of India 1996 1 AD (Delhi) 6 which was subsequently upheld by the Supreme Court of India vide its Judgment reported as Murari and Others Vs. Union of India (UOI) and Others, . The present petition, in view of the settled law is, Therefore, misconceived and cannot be entertained as the petitioner had earlier impugned the Notifications which were upheld by the Apex Court.

2. The learned counsel for petitioner, however, contends that the petitioner has not been dispossessed by the respondents. This plea that the petitioner is still in possession of the acquired land is refuted by learned counsel for the respondents and it is reiterated that the necessary steps have already been taken and the

petitioner is raising false pleas when all acquisition proceedings have completed. The Judgments reported as Balmokand Khatri Educational and Industrial Trust, Amritsar Vs. State of Punjab and others, and in Tamil Nadu Housing Board Vs. A. Viswam (Dead) by Lrs., have been cited in this regard.

Paragraph 4 of the first Judgment reads as under:

"It is seen that the entire gamut of the acquisition proceedings stood completed by 17-4-1976 by which date possession of the land had been taken. No doubt, Shri Parekh has contended that the appellant still retained their possession. It is now well-settled legal position that it is difficult to take physical possession of the land under compulsory acquisition. The normal mode of taking possession is drafting the panchnama in the presence of the panchas and taking possession and giving delivery to the beneficiaries is the accepted mode of taking possession of the land. Subsequent thereto, the retention of possession would tantamount only to illegal or unlawful possession."

3. Similarly, in the second Judgment the Supreme Court in Paragraph 9 has stated as follows :-

"It is settled law by series of judgments of this Court that one of the accepted modes of taking possession of the acquired land is recording of a memorandum or Panchnama by the LAO in the presence of witnesses winged by him/them and that would constitute taking possession of the land as it would be impossible to take physical possession of the acquired land. It is common knowledge that in some cases the owner/interested person may not cooperate in taking possession of the land."

4. In view of the above the plea that the petitioner has remained in possession, cannot be accepted, particularly, when the acquisitions have been finally upheld by this Court as well as by the Supreme Court. The learned counsel for petitioner has next argued that no amount of compensation has been paid to the petitioner and, Therefore, the respondents have no legal right to dispossess them without payment of compensation in view of the settled law as incorporated in relevant provisions of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"). In this regard the respondents have filed counter affidavit wherein it is stated in paragraph 8 that the petitioner has not shown any valid document to indicate his ownership over the land in question and in case the petitioner has any grievance with respect to compensation he will be at liberty to take recourse to the provisions, such as, Section 18 of the Act. His plea will be suitably considered in accordance with law by an appropriate forum. Paragraph 8 of the counter affidavit reads as follows :-

"That the petitioner has made false and frivolous allegations that no compensation has been awarded in respect of the land, subject matter of acquisition. In this regard it is categorically stated that these land have been validly acquired after passing of Award No. 1934-C and 1934-D of 1981-82. The compensation for the land has to be collected by the recorded owner of the land

in question from the Land and building Department. The petitioners have not shown any valid documents which would show the ownership over the land in question, and moreover if the petitioner has grievance with respect to compensation the same should be addressed to u/s 18 of the Land Acquisition Act by way of making references to the concerned Court. The writ petition cannot be maintained on that aspect as the Land Acquisition Act provides for redressing of such grievances in a proper forum. Moreover the challenge to the acquisition have failed right up to the Hon"ble Supreme Court and the petitioner cannot be permitted to surreptitiously raise the issue which have attained finality by the pronouncement of this Hon"ble Court which has further been upheld by the Hon"ble Supreme Court. The petitioners are trespassers after the acquisition having been completed and deserve no relief under the extraordinary jurisdiction of this Hon"ble Court. Consequence of the land being acquired is that the Government has absolute title free from all encumbrance once the land has been acquired, any person who constructed thereon in an unauthorised manner does at his own peril and he cannot claim any equitable relief for such illegal retention of the possession. The owner of the land subject matter of the acquisition is entitled to receive the compensation in accordance with law if he is entitled for the same. Even if the said land is built up, prior to acquisition, the acquisition will not become bad and the only effect would be on the quantum of compensation that would be decided while making the award in respect of such land. The Award would be made keeping in mind the structures on the land sought to be acquired."

5. The learned counsel for the petitioner has argued that the petitioner has already approached the Government for de-notification of the land and the matter is pending consideration. It is further contended that the crops are standing and some time may be granted to the petitioners to reap the same. It will not be necessary for this Court to pass any such order or orders in this regard as the learned counsel for the respondents has contended that the respondents have since come in possession after acquisition proceedings have been upheld. However, it will be open for the petitioner to approach an appropriate forum for redressal of his grievances as permissible in law.

6. In view of the above, the present petition is not maintainable and the same is dismissed. There will be no order as to costs.