
(2018) 10 DEL CK 0454

In the Delhi High Court

Case No : Civil Writ Petition No.7909 Of 2015 & C.M. Appl 15987 Of 2015

Virender Kumar

APPELLANT

Vs

Lt. Governor, National Capital Territory Of Delhi & Ors

RESPONDENT

Date of Decision : 16-10-2018

Acts Referred:

Constitution of India, 1950 — Article 226
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24(2)
Land Acquisition Act, 1894 — Section 4, 6, 17

Citation : (2018) 10 DEL CK 0454

Hon'ble Judges : G.S.Sistani, J;Sangita Dhingra Sehgal, J

Bench : Division Bench

Advocate : Akhil Sachar, Yeeshu Jain, Jyoti Tyagi

Final Decision : Disposed Off

Judgement

G.S.Sistani, J1. This is a petition under Article 226 of the Constitution of India filed by the petitioners seeking a declaration that the acquisition

proceedings with respect to 1008 square yards land comprised in Khasra No. 52/7 situated in the revenue estate of village Prehladpur Banger, NCT of

Delhi (hereinafter referred to as "the subject land") are deemed to have lapsed in view of Section 24 (2) of the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "2013 Act"), as neither the physical

possession has been taken nor compensation has been paid to the petitioners.

2. The necessary facts to be noticed for disposal of this petition are that a Notification under Section 4 & 17 of the Land Acquisition Act, 1894

(hereinafter referred to as "the Act") was issued on 27.10.1999, a Declaration under Section 6 of the Act was issued on

03.04.2000 and an Award bearing No.14/2002-03 was passed on 08.07.2002.

3. Mr. Akhil Sachar, learned counsel for the petitioner submits that since the physical possession of the subject land has not been taken and the

compensation in respect thereof has not been paid, the petitioners would be entitled to a declaration under Section 24(2) of the 2013 Act. He further

submits that his submission is further fortified by the stand taken by the LAC in the counter affidavit. Learned counsel further relies on the decision

rendered by the Supreme Court in Govt. of NCT of Delhi Vs. Manav Dharma Trust and another, reported in 2017 (6) SCC 751, in response to the

stand taken by LAC in the counter affidavit that the petitioner has no locus standi to file the present petition as they are not the recorded owners.

Reliance is placed on para 28 of this judgment which reads as under:-

“28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested

in compensation/landowners/ 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 respondent-writ petitioners do not have

any locus standi.”

4. On the other hand, Mr. Yeeshu Jain, learned counsel for the LAC submits that the vacant physical possession of the land falling in khasra No.

52/7(2-00) has been taken on the spot on 09.05.2000 for the purpose of Rohini Residential Scheme and as per record, the compensation has not been

tendered to the petitioner. In support of his submissions, counsel for LAC relies on para 7 of the counter affidavit, which read as under:

7. That the present petition is liable to be dismissed as after completing the acquisition related requirements under the law, the answering respondent

has duly taken the actual vacant physical possession of the subject land falling in khasra number 52/7(2- 0) on 9.5.2000 and handed it over to the DDA

on the spot by preparing possession proceedings on the spot as the purpose of acquisition was Rohini Residential Scheme. The recorded owner

apparently never turned up to claim the compensation and records revealed that the same could not be paid.”

5. The Learned Counsel appearing for the LAC further submits that the petitioner herein is claiming his right, title or interest in the subject land on the basis of GPA dated 18.09.2002 and not on the basis of sale deed as the same reflects the name of Krishna Devi as the original purchaser.

6. Counter affidavit has also been filed by the DDA. Relevant para is produced hereinbelow:-

â??(ii) As per record, Khasra No. 52/7(4-16) Village Prehladpur Bangar was notified under Section 4 vide Notification No.F10(29)96/L&B/LA dated

27.10.1999 and Declaration U/s 6 & 17(i) of the Land Acquisition Act, vide Declaration Notification No.F10(15)04-L&B/LA 3-4-2000 and Khasra

No.52//7 m(2-00) possession was handed over to DDA by LAC/L&B Department at Site vide Possession Proceedings dated 09-05-2000 and physical

possession of land in question was transferred to the Engg. Department RPD IV for Rohini Residential Scheme. Possession Proceedings dated

09.05.2000 are Annexure R-2 remaining Land (2-16) has not been handed over to DDA by LAC/L&B Deptt. of GNCT Delhi and quashed U/s 6-

17(i) DATED 03-04-2000 by Honâ??ble Supreme Court and U/s 6 was again issued on 20-03-2013 and passed the award No.7/14-15 dated 19-3-

15. Physical possession of above said Land of Kh. No.52//7(4-10) has not been handed over to DDA by LAC/L&B Dept. of GNCT Delhi.â??

7. We have heard the learned counsel for the parties and considered their rival submissions.

8. The learned counsel for the petitioner has submitted that neither physical possession of the subject land has been taken nor compensation has been

paid to the petitioner. Counsel has also submitted that the objections of the LAC regarding locus standi of the petitioner is misplaced in view of the

observations made by the Supreme Court in Manav Dharma Trust (supra) where the rights of the subsequent purchaser have been recognized.

9. As far as the objection with regard to maintainability is concerned, we find the same to be misplaced in view of the observations made by the

Supreme Court in the case of Manav Dharma Trust (supra). We are of the considered view that, the submissions made by the counsel for the LAC

that the petitioner have no locus standi to file the present petition as they are the subsequent owners of the subject land, holds no ground.

10. Having regard to the submissions made in the counter affidavit filed by LAC that the compensation in respect thereof has not been paid to the

petitioner and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioners are entitled to a

declaration under Section 24(2) of the 2013 Act that the acquisition proceedings initiated under the Act with relation to the subject land, are deemed to

have lapsed. It is ordered accordingly. Compensation be paid to the petitioner within one year from today.

11. However, we made it clear that we have not expressed any opinion on the title of the subject land. The question of title of the subject land is left

open to be decided in the appropriate court of jurisdiction.

The writ petition stands disposed of in above terms along with the pending application.