

Deepak Chhabra and Ors. Vs.delhi Development Authority and Ors.

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Court : Delhi

Decided On : Aug-07-2018

Appellant : Deepak Chhabra and Ors.

Respondent : Delhi Development Authority and Ors.

Judgement :

\$~28 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + W.P.(C) 4160/2015
Date of Judgment:

7. h August, 2018 DEEPAK CHHABRA AND ORS.

... Petitioner

s Through Mr. A.K. De, Mr. Rajesh Dwivedi and Ms. Ananya De and Mr. Anuj Chauhan, Advocates versus DELHI DEVELOPMENT AUTHORITY AND ORS.....

... RESPONDENTS

Through Ms. Shiva Lakshmi, CGSC and Mr. Siddharth Singh, Advocates for UOI. Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate for L&B/LAC. Ms. Mrinalini Sen Gupta, Advocates for DDA. CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL G.S.SISTANI, J.

(ORAL) 1. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to land of the petitioners situated in the revenue estate of Village Karala, Utsav Vihar,

Delhi 110081 (hereinafter referred as the 'subject land') as detailed herein after, are deemed to have lapsed in view of Section 24(2) W.P.(C) 4160/2015 Page 1 of 7 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act') as the compensation in respect thereof has not been paid to the petitioners although physical possession of the subject land has been taken over. The petitioners claim the above relief in respect of the following land: Khasra No.Area Village Karala, Utsav Vihar, Delhi-110081

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450 sq. yards 1bigha biswa 1400 sq. yards 1 Bigha, 482 sq. yards 3700 sq. yards 1732 sq. yards 300 sq. yards 1162 sq. yards 232 sq. yards 250 sq. yards 2176 sq. yards 200 sq. yards 400 sq. yards 2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 21.03.2003 and a declaration under Section 6 was made on 19.03.2004. Thereafter, an award W.P.(C) 4160/2015 Page 2 of 7 bearing no.22/2005-06/DC/(N-W) was passed on 02.01.2006 under Section 11 of the Act.

3. Mr. De, learned counsel appearing for the petitioners, has drawn the attention of the Court to para 7 of the counter affidavit filed by the LAC as per which only part possession of the subject land had been taken over by the Government and thereafter the same was handed over to the concerned authority. As far as the payment of compensation is concerned, it has been clearly averred in para 8 of the counter affidavit filed by the LAC that the same has not been paid to the petitioners. In these circumstances, learned counsel for the petitioners submits that the petitioners would be entitled to a declaration under Section 24(2) of the Act.

4. Mr Yeeshu Jain, learned counsel for the LAC, submits that only part possession of the subject land has been taken over and compensation in respect thereof has not been paid to the recorded owners. Paras 7 and 8 of the counter affidavit filed

by the LAC reads as under:-

"7. That the Land Acquisition Collector passed an Award bearing No.22/2005-06 dated 02.01.2006 and it is submitted that the physical possession of the land of the certain Khasra Nos. in village Karalawere taken in part by the Government and handedover the same to the respective authority. 8. That the

... Petitioner

s in the present writ Petition are not the recorded owners and have purchased the Land through W.P.(C) 4160/2015 Page 3 of 7 General Power of Attorney, Agreement to Sell, ranging from 100 sq. yards to 2176 sq. yards. It further submitted that it is difficult for the answering Respondent to ascertain that from which plot holder the same possession in part has been taken. Therefore, the details from the Revenue Records are herein below:-

"ITE M No.396 Date possession Remaining land Recorded owners Khasra nos. was (0-10) Not Paid of Compensation Vikas Mathur S/o. Dharambir 73//12 (4-16) (4-06) taken on 21.02.2007 (3-05) taken 21.02.2007 was on 73//14 (4-12) (1-07) Not Paid 73//19 (4-16) (4-10) Taken on 21.02.2007 (4-12) taken (0-04) (0-06) Not Paid Not Paid Page 4 of 7 759 Gram Sabha 73//22 W.P.(C) 4160/2015 398 399 393- 395 645 645 653 654 656 393- 395 759 are are s/o. There different recorded owners at the items mentioned item No.398(1- 10), item No.399 (1-00), item Nos. 393-395 (2-02) Surjan Badlu There different recorded owners at the items mentioned item No.645(1- 16), item No.653(1-00),item 654(1-00) No.item No.656(1- 00) Dharambir, Singh Mehtab and Satpal Singh s/o. Mange Ram (having 1/3rd share each) Gram Sabha 73//16 (4-16) 73//17 (4-16) Not Taken (4-16) Not Paid (1-15) 21.02.2007 on (3-01) Not Paid 73//18 (4-16) (4-04) taken on 21.02.2007 (0-12) Not Paid 645 646 649 650- 651 645 646 652 655 759 645 645 36- 41 the owners at items mentioned item No.645(0- 16), item No.646(2-00), item No.649(1-00) item No.650- 651 (1-00) owners at the items mentioned item No.645(0- 15), item No.646(1-00), item No.652(1-00) item No.655 (2- 01) Gram Sabha s/o. s/o. Surjan Badlu Surjan Badlu Ram, Mange Bhan, Suraj Singh, Diwan Inder Singh, Satbir Singh s/o. Kirti Singh (having 1/5th share each) (4-16) 73//23 (4-16) on 21.02.2007 (4-16) taken on 21.02.2007 - Not paid. 73//24 (4-16) (1-00)

taken on 21.02.2007 (3-16) Not Paid 83//1 (4-09) 83//4 (4-12) 83//
(2-00) 83//

(2-12) (2-00) taken on 21.02.2007 (3-11) taken on 21.02.2007 Not taken (2-09)
Not Paid (1-01) Not Paid (2-00) Not Paid Not taken (2-12) Not Paid 5. Mr. Jain,
learned counsel for the LAC has however opposed the petition on the ground that
the petitioners are claiming relief based on General Power of Attorney, Will, receipt
etc. which cannot confer title on the petitioner.

6. On the other hand, learned counsel for the petitioners submits that as far as
objection with regard to the ownership and title is concerned, the case of the
petitioners would be covered by the decision rendered by the Supreme W.P.(C)
4160/2015 Page 5 of 7 Court in Govt. of NCT of Delhi vs. Manav Dharma Trust
and another, reported in 2017 (6) SCC751 7. Ms. Mrinalini Sen Gupta, learned
counsel for the DDA, submits that physical possession of the subject land had
been handed over to DDA by L&B / LAC on 21-02-2007 and the same was further
transferred to JE/RPD on 18-07-2007. The relevant portion of the counter affidavit
filed by the DDA reads as under:-

"it is also submitted that the physical possession of Khasra No.73/12min (4-6), 14
min (3-5), 18 min (4-4), 19 min (4-10), 22 min, (4-12), 23 (4-16), 24 min (1-00), 8
min, (2- 0), 4 min, (3-11), has been handed over to DDA by L&B / LAC on 21-02-
2007 and some further transferred to JE/RPD on 18- 07-2007. The payment to
compensation has been sent to L&B /LAC vide Cheque No.094622 dated 06-06-
2006 to Rs. 1,04,06,06,716/- against Award No.22/2005-06/DC/NW. 8. We have
heard learned counsels for the parties.

9. Having regard to the observation made by the Apex Court in the case of Manav
Dharma Trust (Supra), in our view the objection raised by Mr. Jain, learned
Standing Counsel for LAC/L&B is misplaced. In the case of Manav Dharma Trust
(supra), the Apex Court has held as under : all persons are

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the
power-of-attorney holder, etc., are 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 interested who W.P.(C)

4160/2015 Page 6 of 7 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."

10. Having regard to the categorical stand taken in the counter affidavit filed by the LAC that part physical possession of the subject land has been taken over by the Government and compensation in respect thereof has not been paid to the recorded owners, and also taking into consideration the fact that the award having been announced five years prior to the commencement of the 2013 Act, in our view, the petitioners are entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly. As the petitioner has restricted his claim to payment of compensation in terms of the Act of 2013, compensation be paid to the petitioners within one year from today.

11. The writ petition stands disposed of in above terms. G.S.SISTANI, J SANGITA DHINGRA SEHGAL, J AUGUST07 2018 SU W.P.(C) 4160/2015 Page 7 of 7

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