



2024-DHC:9018



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on : 03 September 2024**  
**Judgment pronounced on: 22 November 2024**

+ W.P.(C) 7685/2016 & CM APPL. 31668/2016, CM APPL. 32925/2016, CM APPL. 8351/2019, CM APPL. 50023/2023, CM APPL. 50024/2023

MUKHTYAR SINGH & ORS. ....Petitioners  
Through: Mr. Akhil Sagar and Ms.  
Sunanda Tulysan, Advocates.  
versus

DELHI DEVELOPMENT AUTHORITY ....Respondent  
Through: Mr. Rahul Bakshi, Advocate.

**CORAM:**  
**HON'BLE MR. JUSTICE DHARMESH SHARMA**

### **J U D G M E N T**

1. The petitioners are invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950 for issuance of an appropriate writ, order or direction, thereby seeking the following reliefs:

“I. Issue a Writ, Order or direction in the nature of Mandamus and/or a Writ, calling for the records of the case and after examining the legality and validity of the same direct the Respondent not to carry out any demolition proceedings in the land admeasuring 01 Bigha, 01 Biswas, out of Khasra No.39 in the Revenue Estate of Village Humayunpur, Delhi110029 which is purportedly referred to as Plot/Site No. 13 and 14, B4, Safdarjung Enclave, New Deihi-110029 by the Respondent.

II. Issue a Writ, Order or direction in the nature of Mandamus calling for the records of the case and after examining the legality and validity of the same direct the Respondents not to disturb the peaceful, physical, settled possession of the Petitioners in the land admeasuring 01 Bigha.”



### **BRIEF FACTS:**

2. The brief facts leading to the filing of the present petition are that the petitioners are members of a large family, viz., petitioner No.1 namely Mukhtyar Singh, who is the legal heir of late Shri Ganga Das, petitioner No.2 namely Virender Singh and petitioner No.3 namely Vikram Singh are the legal heirs of the owner namely Late Shri Ramkishan , while petitioner No.4 namely Jai Singh and petitioner No.5namely Subhash Chander are the legal heirs of the owner namely Late Shri Balram Singh. Petitioner No.6 namely Amit Phogaat, petitioner No.7 namely Ashish Phogaat and petitioner No.8 namely Aman Phogaat are the legal heirs of the owner namely Late Shri Tejbeer Singh. Petitioner No.9 namely Narayan Singh is the legal heir of the owner namely Late Shri Balbir Singh and petitioner No.10 namely Rajinder Singh is the legal heir of the owner namely Late Shri Khuba Ram. In brief, they claim that they are the owners of land admeasuring 01 Bigha, 01 Biswas, out of Khasra No.39 in the Revenue Estate of Village Humayunpur, Delhi 110029 (*hereinafter referred to as the 'subject land'*) and claim to be in settled and undisturbed physical possession of the property in question.

3. It is claimed that, a notification dated 3.9.1957 being No. F.15(84)/57-L.S.G. under Section 4 of the Land Acquisition Act, 1894 (*hereinafter referred as "LAC Act"*) was issued by the respondent. Thereafter a declaration dated 03.4.1964 under Section 6 of the Act was issued by the Government of NCT of Delhi stating that the land mentioned therein was required for public purpose namely, "Execution of the Interim General Plan for Greater Delhi".



Consequently, the Land Acquisition Collector (MW), Shri V.K. Bhalla passed the Award No. 2121 dated 29.06.1968 for Village Humayunpur for the purpose of the acquisition as mentioned in the aforesaid scheme, which included the land of the petitioners.

4. Meanwhile, the Legislature introduced 'the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; with effect from 01.01.2014. The petitioners aggrieved by the issuance of the notification dated 03.09.1957 under Section 4 of the old Land Acquisition Act, 1894 and the declaration dated 03.04.1964 issued by the respondent under Section 6 of the old Land Acquisition Act, 1894 as well as the award no. 2121 dated 26.06.1968 being in teeth of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 filed Writ Petition (Civil) No. 6820/2015 before this Hon'ble Court, which was allowed vide dated 30.05.2016 by this Court. The relevant portion of the order is reproduced below:

“2. It is an admitted position that neither physical possession of the subject land has been taken by the land acquiring agency, nor has any compensation been paid to the petitioners. The award was made more than five years prior to the commencement of the 2013 Act. All the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied: -

- (i) Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3SCC 183;
- (ii) Union of India and Ors v, Shiv Rai and Ors:(2014) 6 SCC 564;
- (iii) Sree Balaii Nasar Residential Association v. State of Tamil Nadu and Ors. Civil Appeal No.8700/2013 decided on 10.09.2014; and





7. In view of the above, Respondent/DDA filed a SLP before the Hon'ble Supreme Court of India which was heard and finally decided on 08.02.2018 in the matter titled as “**Indore Development Authority vs Shailender & Ors.**” The relevant portions of the operative portion of the judgement are reproduced below:

2. Leave granted.

5. In the peculiar facts and circumstances of these cases, the appellant is given a period of one year to exercise its liberty granted under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for initiation of the acquisition proceedings afresh.

6. We make it clear that in case no fresh acquisition proceedings are initiated within the said period of one year from today by issuing a Notification under Section 11 of the Act, the appellant, if in possession, shall return the physical possession of the land to the original land owner.”

8. The respondent/DDA has filed a counter affidavit, wherein it has stated primarily as under:

- That a SLP was instituted by DDA against the said judgement before the Hon'ble Supreme Court of India vide SLP (C) 28245/2016 titled as “DDA vs Mukhtyar Singh”. The said appeal was disposed off vide order dated 08.11.2016 by the Hon'ble Supreme Court with the liberty to reacquisition within a period of 1 year from the date of the order of the Hon'ble Supreme Court.

- That on 08.02.2018 the Hon'ble Supreme Court in the matter titled as “Indore Development Authority vs Shailender & Ors had given liberty to the government to file Review Petitions in all cases which have been decided against on the basis of the judgement in Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3SCC 183

- That in furtherance to the same, the respondent had constituted a committee to examine all the cases so as to decide the cases in which Review Petitions are to be filed. However, it is respectfully submitted that meanwhile the matter was referred to the Constitution Bench of the Hon'ble Supreme Court. Hence, the said committee of the answering respondent



could not conduct the said exercise of examining the cases in which Review is to be filed.

### **GROUND IN THE WRIT PETITION:**

9. The petitioner submits that the respondent has not issued any notice of demolition to the petitioners who are the recorded owners of the subject land. Therefore, it is against the principles of natural justice to carry out any demolition proceedings.

10. That the respondent is in blatant violation and wilful disobedience of the judgement dated 30.05.2016 passed by the Divisional Bench of this Hon'ble Court in Writ Petition No. 6820/2015. The court observed that neither physical possession of the subject lands has been taken by the land acquiring agency, nor has any compensation been paid to the petitioners.

11. That the Letter dated 18.8.2016 being Reference No. F2(II)/AE(QRT)/SWD-2/DDA/16-17/45 sent by the Office of the Assistant Engineer (QRT), South Western Division No.-2/DDA Vasant Kunj, New Delhi, blatantly conceals and materially suppresses the judgment dated 30.05.2016 passed by the Division Bench of this Hon'ble Court in Writ Petition (Civil) No. 6820/2015, wherein it has been specifically admitted by the Respondent that the possession of the subject land has not been taken over by the land acquiring agency.

### **ANALYSIS AND DECISION:**

12. Having heard the learned counsels for the parties and on perusal of the record of this case, this Court has no hesitation that the petitioners are entitled to reliefs claimed. It is a matter of record that



Division Bench of this Court *vide* judgment<sup>2</sup> dated 30.05.2016 passed the following orders:

“1. By way of this writ petition the petitioners are seeking the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as ‘the 2013 Act’) which came into effect on 01.01.2014. The petitioners, consequently, seek a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as ‘the 1894 Act’) and in respect of which Award No. 2121 dated 29.06.1968 was made, inter alia, in respect of the petitioners’ land comprised in Khasra Nos. 39 (01-01) admeasuring 1 bigha 1 biswa in Village Humanyunpur shall be deemed to have lapsed.

2. It is an admitted position that neither physical possession of the subject lands has been taken by the land acquiring agency, nor has any compensation been paid to the petitioners. The award was made more than five years prior to the commencement of the 2013 Act. All the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:-

(i) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183;

(ii) **Union of India and Ors v. Shiv Raj and Ors:** (2014) 6 SCC 564;

(iii) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors:** Civil Appeal No. 8700/2013 decided on 10.09.2014; and

(iv) **Surender Singh v. Union of India and Ors.:** W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

3. As a result the petitioners are entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared.

4. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.”

13. It is also borne out from the record that the aforesaid order was challenged before the Supreme Court<sup>3</sup> wherein *vide* order dated

<sup>2</sup> WP(C) 6820/2015 [Mukhtyar Singh v. Govt. of NCT of Delhi]

<sup>3</sup> SLP (Civil) 28245/2016 DDA v. Mukhtyar Singh



08.11.2016 liberty was granted to the appellant/GNCTD<sup>4</sup> for reacquisition of the property in question within a period of one year of the date of order. The said position is accepted in the counter-affidavit filed by the respondent. It is, however, submitted that later on in terms of decision of the Supreme Court in the case of **Indore Development Authority v. Shailender**<sup>5</sup> a liberty was given to the Government to file review petition which have been decided against it on the basis of judgment in the case of **Pune Municipal Corporation v. Harakchand Misirimal Solanki**<sup>6</sup>; and then a Review Committee had been constituted to examine as to in which of the cases, review be preferred. However, in the meanwhile, the matter was referred to the Constitution Bench of the Supreme Court, and therefore, no review could be filed. Anyhow, it is also acknowledged that the Supreme Court directed that in case no fresh acquisition proceedings are initiated within the said period of one year from date of the order by issuing notification under Section 11 of the LAC Act, the appellant, if in possession, shall return the physical possession of the land to the original land owner.

14. All said and done, the entire controversy surrounding the decision in *Pune Municipal Corporation (supra)* as well as *Indore Development Authority (supra)* is set at rest by the decision of the Supreme Court in the case of **Govt of NCT of Delhi v. K.L. Rathi Steels Limited**<sup>7</sup>, the sum of substance of which is that no review now

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<sup>4</sup> Government of National Capital Territory of Delhi

<sup>5</sup> (2018) 3 SCC 412

<sup>6</sup> (2014) 3 SCC 183

<sup>7</sup> (2024) 7 SCC 315





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survives as against the decision passed in *Pune Municipal Corporation (supra)*.

15. Before parting with this petition, it is also pertinent to mention that the respondent/DDA preferred MA No. 2282/2024, registered on 06.11.2024, seeking recall of the Judgment dated 08.11.2016 and the said review has since been dismissed by the Supreme Court *vide* order dated 06.11.2024 as well.

16. In view of the foregoing discussion, the present writ petition is allowed. A writ of Prohibition is issued in favor of the petitioners, directing the Delhi Development Authority (DDA) not to disturb the petitioners' peaceful and physical possession in respect of land measuring 1 Bigha 1 Biswas out of Khasra No.39 in the Revenue Estate of Village Humayunpur, Delhi-110029 and restrain from taking over the possession of the same except according to due process of law.

17. The pending applications also stand disposed of.

**DHARMESH SHARMA, J.**

**NOVEMBER 22, 2024**

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