

\$~29 to 31

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

+ **W.P.(C) 7600/2015**

M/S BEST BUILD CREATIONS PVT. LTD. & ANR..... Petitioners

Through: **Mr. Abhik Kumar & Mr. Suryadeep
Singh, Advocates**

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: **Mr.Dhanesh Relan, Standing counsel
with Ms. Komal Sorout, Advocates
for Respondent/DDA
Mr. Yeeshu Jain with Ms. Jyoti
Tyagi, Advocates for Respondent
LAC/L & B**

+ **W.P.(C) 9312/2015**

M/S NIKISH COMPUTER SYSTEMS PVT. LTD. Petitioner

Through: **Mr. Abhik Kumar & Mr. Suryadeep
Singh, Advocates**

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: **Mr.Dhanesh Relan, Standing counsel
with Ms. Komal Sorout, Advocates
for Respondent/DDA
Mr. Yeeshu Jain with Ms. Jyoti
Tyagi, Advocates for Respondent
LAC/L & B**

+

W.P.(C) 9342/2015**M/S BEST BUILD CREATIONS PVT. LTD.**

..... Petitioner

Through: Mr. Abhik Kumar & Mr. Suryadeep
Singh, Advocates

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr.Dhanesh Relan, Standing counsel
with Ms. Komal Sorout, Advocates
for Respondent/DDA
Mr. Yeeshu Jain with Ms. Jyoti
Tyagi, Advocates for Respondent
LAC/L & B**CORAM:****JUSTICE S.MURALIDHAR****JUSTICE I.S.MEHTA****ORDER****30.04.2019**

%

1. This three petitions arise out of the common set of facts and seek identical remedies. They are accordingly being disposed of by this common order. Nevertheless they were heard separately.
2. In each of these petitions there are two prayers. Prayer (a) is for setting aside the notification dated 27th June, 1996 under Section 4 of the Land Acquisition Act, 1894 ('LAA') and a declaration dated 10th January, 1997 under Section 6 of the LAA and an Award No. 2/1998-1999 to the extent that they seek to acquire the Petitioner's land located in the revenue estate of Village Malikpur Kohi, Rangpuri, Tehsil Kapshehra, District South Delhi, NCT of Delhi. Prayer (b) is for a declaration that the acquisition of the Petitioner's land stands lapsed under Section 24(2) of the Right to Fair

22

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act').

3. In each of these petitions, an interim order was passed on 5th October, 2015 directing parties to maintain status-quo with regard to the nature, title and possession of the land in question. The said interim order was made absolute by this Court subsequently by orders dated 26th October 2017, 9th January, 2018 and 16th January 2018.

4. The averments in each of the petitions is also identical. It is stated that the notification issued on 27th June, 1996 under Section 4 of the LAA was challenged in WP(C) No. 1953/1997 titled *Vasant Kunj Enclave Housing Welfare Society v. Union of India*. The said notification under Section 4 read with Section 17 LAA was struck down by this Court by an order dated 28th April, 2006 in the said writ petition.

5. SLP (C) No. 4062/2012 preferred against the said order was dismissed by the Supreme Court on 27th April, 2012. A public notice dated 21st November, 2012 followed by a corrigendum dated 8th July, 2013 was issued by the Land Acquisition Collector (LAC) inviting objections under Section 5-A LAA. During the pendency of the said proceedings, the 2013 Act came into force on 1st January, 2014.

6. In each of the petitions, it is stated that the Respondents have neither paid compensation nor taken physical possession of the Petitioner's land and accordingly the Petitioners are seeking the reliefs as prayed for.

7. In the counter affidavit filed on behalf of the Delhi Development Authority (DDA) it is pointed out that the land was acquired for the planned development of Delhi. Although the possession of the land was not handed over to the DDA, it had deposited the compensation of Rs. 13.47 crores with the Land and Building Department by cheque dated 10th January, 1996.

8. It is pointed out that each of the Petitioners was neither a party to the earlier proceedings in this Court or before the Supreme Court and therefore, was not entitled to the reliefs claimed for.

9. A separate counter affidavit has been filed by the LAC pointing out that none of the Petitioners is the recorded owner in respect of the subject land. Each of the Petitioners was claiming reliefs on the basis of an assignment deed which was not a valid document of conferring right, title or interest in respect of the said land in question. There were interim order passed in the various writ petitions which challenged the earlier land acquisition proceedings and even the notices issued subsequently on 21st November, 2012 inviting objections under Section 5-A of the LAA, as a result of which the land acquisition proceedings could not be completed. Reliance is placed on the decisions in *Abhey Ram v. Union of India* (1997) 5 SCC 421 and *Om Prakash v. Union of India* (2010) 4 SCC 17 to urge that if on account of the continuous interim orders passed by the Courts the Respondents were precluded from completing the land acquisition proceedings, it was not open to the Petitioners to seek a declaration of deemed lapsing of land acquisition proceedings under Section 24 (2) of the 2013 Act.

10. The above issues have been comprehensively dealt with by this Court in its judgment in *Shivi Talwar v. Union of India 2019 (174) DRJ 390 (DB)*. Similar contentions of the Petitioners in those cases, who were seeking reliefs as prayer (a) above in relation to the lands located in Village Malikpur Kohi, Rangpuri have been rejected by this Court.

11. As regards prayer (b), it requires to be noticed that if indeed the Petitioner's land is covered by the fresh notification issued inviting objections under Section 5-A, then there is no Award yet in respect of which any relief in terms of Section 24 (2) of the 2013 Act can be granted. In that case prayer (b) would not survive. On the other hand, if the lands in question are not covered by the notice under Section 5-A of the LAA, the Petitioners cannot in any event not seek relief under prayer (b) because they have failed to demonstrate any valid right, title or interest in respect of the lands in question. Further, they have failed to approach the Court for relief within a reasonable time of the earlier Award No. 2/1998-1999. None of these Petitioners has filed rejoinders to contradict the assertions in the counter affidavits of the LAC or the DDA.

12. For all of the aforementioned reasons, none of the prayers in these petitions can be granted. The petitions are accordingly dismissed. No order as to costs.

13. The interim orders passed by this Court on 5th October, 2015 which stood confirmed on 26th October, 2017, 9th January 2018 and 16th January

25

2018 are hereby vacated.



S. MURALIDHAR, J.



I.S. MEHTA, J.

APRIL 30, 2019

mw