

**IN THE COURT OF LD. DISTRICT JUDGE-01
SOUTH-EAST DISTRICT, SAKET COURTS: NEW DELHI**

LAC 2-19

DEVI RAM Vs.

.....Petitioner

Vs.

UNION OF INDIA

.....Respondents

ORDER

1. Today the matter has come up for orders on an application under Order I Rule 10 CPC for deletion filed on behalf of NTPC and application under Order I Rule 10 CPC filed by the respondent no. 1 for impleadment of Ministry of Housing and Urban Affairs.
2. The present reference petition was decided by Ld. Predecessor Court by award dated 16.10.2019. The same was challenged by both the petitioner and Union of India before the Hon'ble High Court of Delhi in LA Appeal No. 16/21 and LA Appeal No. 62/2021. Both the said appeals came to be disposed of vide order dated 26.03.2025, as per which the award dated 23.10.2019 was set aside and the matter was remand back to the Reference Court for deciding the reference afresh after giving notice for hearing and liberty to lead evidence to the parties including NTPC.
3. The said order was sought to be reviewed by NTPC and a review petition were filed which was finally disposed of vide order dated 20.08.2025. The said order reflects that the applicant had withdrawn the review petition before the Hon'ble High Court of Delhi with liberty to approach this

Court with appropriate petition/application.

4. Based upon the above two orders of the Hon'ble High Court of Delhi, the applicant/NTPC has filed the present application under Order I Rule 10 CPC for its deletion from array of parties. It is submitted by Ld. Counsel for applicant that award against which the present reference has been filed shows that 779 bighas and 12 biswas of land in village Aali was notified under Section 4 of the Land Acquisition Act, 1894 on 06.01.1969 for the purpose "Ash disposal and Railway siding Badarpur Thermal Power Project". It is stated that the said power project was an undertaking of Union of India and compensation is payable by the concerned Ministry, i.e. the Ministry of Power. It is stated that the present petition was filed initially on 19.04.1973 for enhancement of compensation but was stayed due to the proceedings under section 30/31 of the Act being pending. Vide judgment dated 23.10.2019, the Ld. Predecessor Court enhanced the compensation from Rs. 600 per bigha to Rs. 12 Per sq yards.
5. It is submitted that the applicant was impleaded by the Hon'ble High Court of Delhi in terms of the judgment of Hon'ble Supreme Court of India in **DDA Vs. Bholanath (2011) 2 SCC 54** and NTPC was impleaded on the oral instance of the land owner and the Union of India. It is submitted that as per the judgment of the Hon'ble Supreme Court of India in **Satish Kumar Gupta Vs. State of Haryana (2017) 4 SCC 760**, the applicant was not required to be made a party in the present case as the applicant is a subsequent allottee of the acquired land and as such cannot

be made a party to the section 18 reference.

6. It is submitted that the Badarpur Thermal Power Project (BTPP) was fully owned and controlled by the Ministry of Power, Government of India for generation of power. In April, 1978, the management and operation of the BTPP was entrusted to NTPC. Further, on 13.05.2006, vide a gazette notification, Government of India transferred all the rights, title and interest regarding the generating activities in the Badarpur Thermal Power station to NTPC Ltd whereas the land forming the part of generating station was to continue to vest in the Government and was leased to NTPC.
7. Subsequently, the said power plant was closed and orders for demolition of the same were passed. Upon demolition of the plant, the land was returned to Government on 15.06.2023 and possession was handed over to Ministry of Housing and Urban Authority/L&DO on 15.06.2023. It is stated that compensation for the acquired land is to be paid by Union of India in its capacity as beneficiary of the subject land and NTPC has no liability to pay compensation. On these grounds, it is submitted that NTPC is not a necessary party and needs to be deleted from the array of parties.
8. On the filing of the above application, reply has been filed by the Union of India. Union of India has also filed an application under Order I Rule 10 CPC for impleadment of Ministry of Housing and Urban Affairs as a respondent in the present case. Ld. Counsel for UOI has submitted that as per the award in respect of which the present petition has

been filed, the land was acquired for the purpose of Badarpur Thermal Power Plant and it is the own case of NTPC that NTPC had acquired the assets of BTPP and as such they are a necessary party. It is further submitted that since the NTPC has raised the issue of Ministry of Housing and Urban Affairs being a necessary party, an application for its impleadment has also been filed so that the correct beneficiary department can be identified and the proceedings of the present reference can be taken forward.

9. Ld. counsel for petitioner has submitted that the Union of India has to inform the Court as to who is the actual beneficiary department. It is further submitted that since the Hon'ble High Court of Delhi has impleaded NTPC as a necessary party being the beneficiary, they cannot be deleted from the array of parties. In view of the above, he has sought dismissal of the application of NTPC.
10. As noted above, the present reference petition has been remanded back to the reference Court vide order dated 26.03.2025 passed by the Hon'ble High Court of Delhi. As per the said order, it is revealed that the petitioner as well as Union of India had made no objection if the matter be remanded back to the Reference Court for NTPC to lead its evidence. NTPC was represented through counsel at the time of the hearing of the petition and the NTPC has also not raised any objection to the matter being remanded back to the Reference Court after impleading of NTPC.
11. It is submitted that the said order was sought to be reviewed and liberty was granted by the Hon'ble High Court of Delhi to approach the Reference Court with regard to deletion of

NTPC. Perusal of the order dated 20.08.2025 would reveal that the said review was allowed to be withdrawn with liberty to approach this Court with appropriate application. In the said order, the Hon'ble High Court of Delhi referred to its own order dated 18.09.2024 as per which the NTPC had stated that NTPC is a necessary party and needs to be heard while deciding the reference petition.

12. Thus, what is clear is that NTPC was incorporated in the reference by the Hon'ble High Court of Delhi vide order dated 11.07.2024. Thereafter, the NTPC appeared before the Hon'ble High Court of Delhi on 18.09.2024 and submitted that in terms of para 27 of DDA Vs. Bholanath (supra), NTPC has a right to participate before the Reference Court being a beneficiary.

13. This negates the arguments of Ld. Counsel for NTPC that only at the instance of the petitioner and Union of India, the present matter was remanded back to this Court for adjudication whereas NTPC itself vide its statement recorded in order dated 18.09.2024 by the Hon'ble High Court of Delhi had sought the same relief. Thus, NTPC cannot be allowed to make two divergent statements on the same point at this preliminary stage. As the Hon'ble High Court of Delhi has impleaded NTPC and remanded the matter back to this Court on submissions of NTPC as well as other parties to the case, this Court cannot delete NTPC from the array of parties.

14. As liberty has been granted by the Hon'ble High Court of Delhi to NTPC to approach this Court, the application is being decided on merits as well.

15.NTPC has based its arguments for deletion on following grounds:-

(i) That NTPC is not a beneficiary of the present acquisition as the acquisition was carried out for the purposes of BTTP.

(ii) That NTPC is a subsequent allottee and a subsequent allottee cannot be impleaded as a necessary party in a reference under section 18 of the Act.

(iii) That the NTPC was only granted interest in assets of BTTP excluding the land and the land was given to NTPC on lease.

(iv) That the acquired land was handed over to the Ministry of Housing and Urban Authority who is the ultimate beneficiary.

16.As far as the argument of NTPC that NTPC was not the original beneficiary of the acquired land and NTPC was a subsequent allottee, it has to be borne in mind that the whole assets of BTTP were transferred to NTPC first in April, 1978 and later the same was formalized vide gazette notification dated 31.05.2006. Ld. Counsel for NTPC has relied upon the judgment of Satish Kumar Gupta (supra) to state that a post acquisition allottee is not a necessary party. However, the said case is distinguishable on facts as in the said case, the land was acquired by Haryana State Industrial and Infrastructure Development Corporation and was transferred to a private entity which was not related to HSIIDC at all. However, in the present case, the Union of India transferred BTTP from its Ministry to its own instrumentality i.e. NTPC. Thus, the two cases are fundamentally different and as such NTPC cannot be said to be a subsequent allottee but

had stepped into the shoes of the beneficiary for which the land was acquired. Thus, these two objections of NTPC cannot be entertained at this stage.

17. Another limb of the arguments of NTPC is that NTPC was never given the ownership of the land but was given the land on lease basis. Ld. Counsel for NTPC has relied on the gazette notification dated 31.05.2006 to substantiate his point.

18. On a perusal of the gazette notification dated 31.05.2006 it is apparent that the land on which BTPP was functioning is given on lease to NTPC for an initial period of 50 years, i.e. till 2056. As such, the notification shows that the NTPC is a beneficiary of the acquired land in a lease hold capacity.

19. Further, it is claimed that the land was handed over to the Ministry of Housing and Urban Affairs in 2023. However, the handing over of the land to the Ministry of Housing and Urban Affairs is said to be done through certain documents which would need to be proved in trial as neither the originals of the same are placed on record nor the same are such documents whose judicial notice a Court is required to take. Further, even if notice of such communication is taken, the same does not disclose which land is being handed over to the Ministry of Housing and Urban Affairs and whether the land of the petitioner is included in the land handed over to the Ministry.

20. Based upon the above discussion, the application under Order I Rule 10 CPC filed by NTPC for its deletion is dismissed.

21. Notice of the application under Order I Rule 10 CPC filed

by the Union of India for impleadment of Ministry of Housing and Urban Affairs was served upon the proposed respondent, but none has appeared for the proposed respondent.

22.The said application is based upon the application of NTPC itself and impleadment of the Ministry of Housing and Urban Affairs is sought as NTPC has claimed that Ministry of Housing and Urban Affairs is the actual beneficiary of the acquired land.

23.No opposition from the proposed respondent by way of any reply has come on record. As NTPC is claiming that the beneficiary of the acquired land is the proposed respondent and in case it is so found, another round of litigation is likely to commence.

24.As such, the application for impleadment of Ministry of Housing and Urban Affairs is allowed. Union of India through Ministry of Housing and Urban Affairs is impleaded in the present case as respondent no. 3.

**Announced in the open
Court on 20.12.2025**

**(RAHUL BHATIA)
District Judge 01(SE),
Saket Courts, New Delhi**