

**IN THE COURT OF DR. AJAY GULATI, ADDL. DISTRICT JUDGE,
ROOM NO. 606, SAKET COURTS, SOUTH DISTRICT,
NEW DELHI**

In the matter of
LAC No.24/2016
Filing No.4/1971
CNR No. DLST01-000001-1971

Union of India
Land Acquisition Department
Delhi

..... Petitioner

VERSUS

1. **Gaon Sabha**
2. **Prabhu**
S/o Bulaki
3. **Nihala**
S/o Chan Sukh
4. **Prabhu**
S/o Rupa
5. **Take Chand**
S/o Rupa
6. **Rattan Singh**
S/o Kishan Lal
7. **Surjan Singh**
S/o Bulaki
8. **Mangtu**
S/o Bulaki
9. **Hargan**
S/o Bikhu
10. **Chatra**
S/o Hata
11. **Khul Singh**
S/o Chand Sukh
12. **Chandu**

- S/o Chunni
13. **Harlal**
S/o Chunni
14. **Lambbhu**
S/o Kharty
- All:
- R/o Kishan Garh, Mehrauli
15. **Budu**
S/o Panna
16. **Kishan Lal**
S/o Rupa
17. **Ram Ishwar**
S/o Kapul
18. **Fule**
S/o Bulaki
19. **Brij Lal**
S/o Pancham Singh
20. **Chunni**
S/o Nahbub
21. **Jogi Ram**
S/o Chunni
22. **Dharma**
S/o Chunni
23. **Chandu Lal**
S/o Pancham
24. **Kishan Singh**
S/o Chunni
- All:
- R/o Mehrauli
25. **Risal Singh**
S/o Subedar Goverdhan Singh
26. **Ran Singh**
S/o Sh. Subedar Singh
27. **Mange Ram**
S/o Peyare
28. **Mohar Singh**
S/o Peyare
- All:

- R/o Kishan Garh, Mehrauli
- 29. Ram Kishan Gord**
S/o Pandit Janki Prashad
R/o Mehrauli
- 30. Om Parkash**
S/o Dr. Nihal Singh
- 31. Mangtu Singh**
S/o Ghur Shyam
- 32. Ram Chander**
S/o Dip Chand

All:

- R/o Kishan Garh, Mehrauli
- 33. Jai Pal Singh Radhi**
S/o Hari Singh Radhi
R/o Haryana
- 34. Kundan**
S/o Jamna Dass
- 35. Chandan @ Chandgi Ram**
S/o Jama Dass
- 36. Hari Kishan Gord**
S/o Janki Prashad
- 37. Dip Chand**
S/o Ghisa Ram
- 38. Rajinder Prasad**
Through Legal Heirs
(a) **Vinod Kumar**
(b) **Ashok Kumar**

Both:

R/o House No.1/9, Kishan Garh,
Mehrauli, New Delhi-110 030

(c) Smt. Sumitra
W/o Sh. Mahender
R/o Village Munimpur, Dist Jhajjar
Haryana

(d) Smt. Kanta
W/o Shri Bhagwan
R/o Village Munimpur, Dist Jhajjar
Haryana

39. Kishan Chand

Through Legal Heirs

- (a) **Smt. Chander Kanta**
- (b) **Sunil Kumar Sharma**
- (c) **Dharmbir**
- (d) **Gopal Gaur**

All:

R/o House No.610-B, Mohalla Ram Pota
Brahaminpuri, Ward No.3, Mehrauli,
New Delhi-110 030

(e) **Smt. Meena**

W/o Sh. Sanjai Vats
R/o House No.498, Village Karala,
New Delhi-110 081

(f) **Smt. Babita**

W/o Sh. Rajesh
R/o House No.3/502, Gali No.3,
Shankar Garden, Bahadur Garh,
Distt. Jhajjar, Haryana

(g) **Smt. Prem Lata**

W/o Sh. Dinesh
R/o Village & Post Office Khuman,
District Jhajjar, Haryana

40. Shiv Hari

S/o Late Sh. Bhagwan Parshad
R/o House No.610-B, Ward No.3,
Mehrauli, New Delhi-110 030

41. Bal Datt Sharma

R/o Contractor, 37 Bazar Lane,
Jangpura, New Delhi.

.....**Respondents**

Reference received on	:	15.11.1971
Date of institution	:	15.11.1971
Date on which order was reserved	:	28.11.2017
Date of Award	:	29.11.2017

AWARD

(on reference petition under Section 30-31 of the Land Acquisition Act, 1894)

1. The present reference petition under Section 30-31 of the Land Acquisition Act, 1894 along with memorandum of interested persons was received from the office of Land Acquisition Collector pertaining to Award No. 80A Supplementary/71-72 of Village Mehrauli in respect of acquisition of land vide preliminary notification dated 23.01.1965 under Section 4 of the Act for the purpose of planned development of Delhi. Thereafter, notices of the reference were issued to all the concerned parties.

CLAIMS OF THE INTERESTED PARTIES

2. On service of notice, claims were filed by IP No.1, 19 to 22, 24 to 28, 38 to 40, and on behalf of Har Kishan IP No.36 and Ram Kishan IP No.29 for themselves and as the Legal Heirs of IP No.37 Deep Chand S/o Sh. Ghisa Ram.
3. As per the claim filed by IP No.1 i.e. Gaon Sabha Mehrauli, the land in question was a waste land and of common utility; the same was vested in Gaon Sabha on the commencement of Delhi Land Reforms Act; and that only Gaon Sabha was entitled to received the compensation amount.
4. IP No.1 Gaon Sabha Mehrauli not only opposed the claim of IP No.38 to 40 but also claimed compensation for the entire

acquired land on the premise that the acquired land is a waste land which vested in the Gaon Sabha after commencement of Delhi Land Reports Act, 1954. It was asserted that possession of land was also taken from Gaon Sabha Mehrauli. The Gaon Sabha Mehrauli also denied claims of other contesting IPs refuting that neither they were Bhumidar nor they have any right or title in the acquired land. Thus, Gaon Sabha claimed whole of the compensation.

5. Ram Kishan and Har Kishan, in their claim application, submitted that land measuring 105 Bigha 3 Biswa bearing Khasra No.2943/1679, 2947/1674, 2925/2746, 2077/1679 and 2929/2079/1680, acquired by the LAC was owned by the claimants being the owner and in possession of land measuring 81 Bigha 10 Biswa and also being the only legal heirs of Deep Chand S/o Late Pandit Ghisa Ram, who was the owner and in possession of 23 Bigha 10 Biswa of land and also being the. As such they were entitled for the compensation awarded for the entire 105 Bigha 3 Biswa land. Thus they claimed in their own right (IP No.29 & IP No.36) as owners as well as legal heirs of Deep Chand.
6. IP No.19 to 22 & 24 to 28 claimed that the acquired land belonged to Thock Malhe Patti Sahi Ram of Village Mehrauli which was allotted to them in terms of the family arrangements. They sought their claim on the following grounds. There was no order passed by the Deputy Commissioner thereby vesting the

land of the claimants in the Gaon Sabha neither any notice was ever served on the claimants with regard to the vesting of land in Gaon Sabha. They were the recorded owners of the acquired land and in the Jamabandi for the year 1949-50, the same did not fall in the definition of waste land as the same being gair-mumkin-pahar, was in use and occupation for the purpose other than those mentioned in Section 3(13) of the Delhi Land Reforms Act since much before October, 1956. The acquired land was being used for quarry purposes and mines since the same was never an agricultural land. The acquired land had been urbanized and was wrongly shown in the ownership of Gaon Sabha at the time of acquisition. Claimants were in possession of the acquired land and as such they had acquired the bhumidari rights under Section 85 of the Delhi Land Reforms Act, 1954. Consequently, they prayed that the compensation amount be given to them.

7. IP No.38 to 40 submitted that LAC while passing Award No.80-A/71-72 assessed the compensation for the acquired land in the name of Gaon Sabha and only on their objections, referred the matter under Section 30-31 to the Court to decide the issue of entitlement to receive the compensation and hence, there can possibly be no question of vesting of the acquired land in Gaon Sabha Mehrauli. They based their claim on the same grounds as taken by IP No.19 to 22 and 24 to 28, and submitted that Gaon Sabha had never existed in Mehrauli. They also

claimed the share of IP Deep Chand in the compensation award being his legal heirs. It was specifically pleaded by these IPs that even assuming that the acquired land did vest in Gaon Sabha, Mehrauli after the coming into force of the DLR Act, they have not been evicted by Gaon Sabha from the acquired land and hence, acquired Bhumidari rights under Section 85 of the D. L. R. Act.

8. IP Har Kishan and Ram Kishan filed reply to the claim filed by IP No.38 to 40 wherein it has been submitted that IP No.38 to 40 did not file any objection under Section 9 & 10 of the L. A. Act, and denied their claim to receive the share of Deep Chand from the compensation award. They further submitted that they were claiming the compensation of Deep Chand on the basis of a Will executed by Deep Chand in their favour, and consequently, prayed that no compensation should be granted to IP No.38 to 40.
9. During the course of proceedings, some of the interested persons expired and their legal representative were brought on record as per amended memo of parties dated 28.07.2015 filed on behalf of the IP No.40.

ISSUES

10. On the basis of pleadings of the parties, following issues were framed by the Learned Predecessor Judge vide order dated

30.08.1978:

1. *Has the vesting of the land in question in Gaon Sabha been wrong and illegal as alleged in the claim petition of IP No.19 to 22 and 24 to 28?*
2. *Was the land in question allotted to IP No.19 to 22 and 24 to 28 in any family arrangement? OP-IP No.19 to 22 and 24 to 28*
3. *Have Rajinder Pd., Shiv Hari and Kishan Chand, IP Nos.38 to 40 been owners in possession of the land in question till the date of its acquisition? OP-IP No.38 to 40*
4. *Have Ram Kishan and Hari Kishan, IPs been owners in possession of the land in question on the date of the acquisition? OP-Ram Kishan and Hari Kishan, IPs*

11. It is pertinent to mention here that vide order dated 09.01.1980, after considering number of orders passed with respect to the Legal Heirs of IP No.37 Deep Chand S/o Ghisa Ram, Learned Predecessor Judge framed additional issues, which read as under:

1. *Who are the heirs of Deep Chand s/o Ghisa Ram, IP No.37?*
2. *Did Deep Chand s/o Ghisa Ram make any Will in favour of Ram Kishan and Hari Kishan?*

12. Thereafter, the matter was fixed for leading evidence on behalf of Ram Kishan and Hari Kishan. Vide order dated 09.03.1982 it was recorded by Learned Predecessor Judge that after framing of main issues, a dispute with regard to the heirship of Deep Chand s/o Ghisa Ram arose and two issues were framed. It was further recorded that the matter having been decided by the Hon'ble High Court of Delhi in Civil Revision No.460/79, its effect would have to be seen in the present case. Vide C. R. No.460/1979, applicants Sh. Rajinder Prasad, Shiv Hari and Kishan Chand had approached the Hon'ble High Court for revision of the order dated 24.04.1979 passed by the Sub Judge, Delhi who had dismissed their application for their substitution as legal heirs of Late Deep Chand. The Sub Judge, Delhi in its common order dated 24.04.1979, allowed the application moved by Ram Kishan and Hari Kishan by impleading them as legal heirs of Late Sh. Deep Chand on the basis of Will, which was duly proved by them and dismissed the application of applicants for impleadment. The Civil Revision Petition was also disallowed by the Hon'ble High Court.

EVIDENCE ADDUCED

On behalf of IP No.38 to 40

13. Ram Kishan S/o Tilak Ram, Tehsildar was examined as

RW-1. He relied on the certified copy of report No.891/68 as Ex.RW1/1 (It is a letter dated 22.07.1967 addressed to the Court of Sh. B. B. Tandon, S.D.M./R.A. Delhi written by Under Secretary (Revenue), Union of India, vide which information with regard to the encroachment upon the Gaon Sabha land and its non vacation despite repeated efforts by Ram Kishan, Hari Kishan both S/o Pt. Janki Parshad; Deep Chand S/o Shiv Ram; Rajinder, Krishan, Shib Hari all S/o Bhagwan Parshad; Devi W/o Manphool). In his examination in chief, he submitted that his department used to send cases of unauthorized occupants on Gaon Sabha land to SDM/RA; that there was a 'panchayat' in Mehrauli prior to urbanization of the Village; and that he cannot say without record as to which part of Mehrauli is included in Gaon Sabha, Masoodpur. He further submitted that report submitted to the SDM/RA is signed by the officer submitting the same and that he had seen the report No.891/68, certified copy of which is Ex.RW1/1 having been signed by Sh. B. M. L. Gaumat, Under Secretary.

14. During his cross examination, he submitted that in the absence of the notification, he cannot say as to in which year Khasra No.2936/2714/1668 was urbanized
15. Sh. S. C. Jain, Retired Field Inspector was examined as RW-2, who in his examination in chief submitted that he worked in the Land Management Branch from 02.08.1966 to 31.03.1980; that he did not prepare notice for eviction of

persons who were in unauthorized occupation of the land of GaonSabha; Ex.RW2/1 is under the signatures of Mr. B. M. L. Gomat, Under Secretary; that he did not remember whether there was any GaonSabha in Mehrauli and whether Mehrauli was a notified area or not.

16. In his cross examination, he admitted that his presence has been shown in the proceedings in case No.871/68 in the court of Sh. B. B. Tandon SDM (RA) but did not remember either the facts of the case or that he had conducted the case.
17. Sh. Ami Chand in his examination in chief submitted that he knew Rajinder Parsad, Kishan Chand and Shiv Hari, all sons of Bhagwan Parsad being owners in possession of the acquired land for the last 56 years; that cattles are kept on the land; that IPs take out stones, pieces of stone and bajri from there for construction work; and that GaonSabha was never in possession of the acquired land. He further submitted that Deep Chand was the elder brother of IPs, who died unmarried.
18. He was duly cross examined during which he submitted that the whole plot is in possession of Shiv Hari and others; that though the plot is on the boundary of Jawahar Lal Nehru University, it was in possession of Shiv Hari and others; that Janki Prasad was the father of Ram Kishan IP No.29; and that he didn't know if Ram Swaroop sold some part of this land to Janki Prasad. He submitted that he was not a summoned witness and he did not know if Ram Kishan and Shiv Hari were joint owners

of land in Village. He denied that acquired land belongs to Ram Kishan and it has fallen to his share. He further submitted that he had not seen the revenue record of the Patwari.

19. Murari Lal in his statement submitted that Manphool was the brother of IPs who died in 1947; that Gaon Sabha was never in possession of the land; and the acquired land has trees and is used for tethering milch cattle. The area measuring 51 bighas has 31/2 feet high walls around it and the IPs use the land for breaking stones to sell them as bajri and for growing grass to be used as fodder for cattle. He also submitted that Deep Chand died leaving behind IP No. 38 to 40 as his legal heirs since he had no issue.

20. This witness was duly cross examined on behalf of IP No.29 and 36. Witness submitted that he was not a summoned witness and came on the asking of Rajinder Prasad and Shiv Hari. He denied that the land in question was under the possession of the Government. He submitted that the area of 51 bighas is on the back of Jawahar Lal Nehra University; that Rajinder, Shiv Hari and Kishan Chand are the only legal heirs of Deep Chand; and that IPs do not take out stones anymore for breaking and selling. He further denied that the land in question was sold by Ram Swaroop to Janki Parsad along with land measuring about 45 bighas.

21. Abhay Chand Jain, Inspector Food and Supply, Delhi Administration in his statement submitted that he was posted as

Secretary Gaon Sabha Mehrauli about 18-20 years back. He identified the signatures of Sh. B. L. M. Gomat on the letter Ex.RW1/1 addressed to SDM Undersecretary Revenue. He was neither cross examined on behalf of IP No.38 to 40 nor IPs Ram Kishan and Hari Kishan.

22. Kamal Kant, Judicial Assistant in the court of Dr. Archana Sinha, ADJ, Central-03, Tis Hazari Courts, Delhi was examined as RW-5 (for IP No.40), who brought the summoned record i.e. file of case bearing RCA No.26/2008 titled as Ram Kishan vs. Rajinder. He proved the copy of sale deed dated 14.01.1931 as Ex.RW5/A, translation of sale deed dated 14.01.1931 as Ex.RW5/B and Jamabandi of year 1949-50 as Ex.RW5/C.

23. Deepak Kumar, Junior Judicial Assistant in the court of Dr. Archana Sinha, Central-03, Tis Hazari Courts, Delhi, was examined as RW-6, who brought the summoned records i.e. sale deed dated 29.07.1963 executed by Krishan S/o Sh. Bhagwan Prasad in favour of Sh. Ratti Ram in respect of land measuring 5 bighas 15 biswas, copy of which was exhibited as Ex.RW6/A (OSR); and sale deed dated 17.10.1959 executed by Rajender Prasad and Sh. Krishan Chand in favour of Ram Niwas in respect of land measuring 1 bighas 3 biswas.

24. IP No.40 in order to prove his claim, examined himself as IPW-40 by way of affidavit IPW-40/A and relied on the following documents:

1. *Sale deed dated 14.01.1931 already*

exhibited as Ex.RW1/1 {on record Sale Deed (Urdu) has been exhibited as Ex.RW5/A and English version has been exhibited as Ex.RW5/B};

2. Last Jamabandi of year 1949-50 of Village Mehrauli, already exhibited as Ex.RW5/C; and

3. Proceedings of case No.891/1968 already exhibited as Ex.R1/2 (on record this document has been exhibited as Ex.RW1/1 on 17.11.1982).

25. In his examination in chief by way of affidavit, IPW-40 deposed on the lines of his claim. He submitted that he alongwith IP No.38 and 39 are the recorded owners in possession of the land bearing Khasra No.2929/2079/1680/3 measuring 5 bighas and 11 biswas as per last jamabandi of year 1949-50 and the same was purchased by his predecessor in interest from Ram Swaroop in 1931 vide sale deed dated 14.01.1931. He deposed that the acquired land was never vested in GaonSabha, that their forefathers were recorded bhumidars and their possession was recorded in revenue records. He further deposed that even if GaonSabha was the owner of the land, they were not ejected from the land as there was no ejectment order from the year 1968 onwards and their possession was admitted. Consequently, they acquired Bhumidari rights under Section 85 of the Delhi Land Reforms Act.

No evidence was led by any of the other IPs.

FINAL ARGUMENTS

26. The Court gave a patient hearing to the arguments addressed on behalf of the parties, and has also minutely gone through the material available on record and the evidence adduced.

27. My issue-wise findings are as under:

ADDITIONAL ISSUES

1. *Who are the heirs of Deep Chand s/o Ghisa Ram, IP No.37?*

2. *Did Deep Chand s/o Ghisa Ram make any Will in favour of Ram Kishan and Hari Kishan?*

28. Vide order dated 09.03.1982 Learned Predecessor Judge had recorded that the matter with regard to the legal heirs of Late Sh. Deep Chand having been decided by the Hon'ble High Court of Delhi in C. R. No.460/79, its effect would have to be seen in the present case. The Hon'ble High Court had disallowed the C. R. No.460/1979, vide which applicants Sh. Rajinder Prasad, Shiv Hari and Kishan Chand I.e IP No.38 to 40 had approached the Hon'ble High Court for revision of the order dated 24.04.1979 passed by the Sub Judge, Delhi who had dismissed their application for their substitution as legal heirs of

Late Deep Chand in the Civil Suit No. M-67/74 titled as Deep Chand vs. Banwari Lal & Others. The Sub Judge, Delhi vide its common order dated 24.04.1979, allowed the application moved by Ram Kishan and Hari Kishan by impleading them as legal heirs of Late Sh. Deep Chand on the basis of Will, which was duly proved by them and dismissed the application of applicants for impleadment.

29. In view of the above, both these issues are disposed off and Ram Kishan and Hari Kishan i.e. IP No. 29 and 36 are held to be the legal heirs of Sh. Deep Chand i.e. IP No.37.

ISSUE NO.1 & 2

1. *Has the vesting of the land in question in Gaon Sabha been wrong and illegal as alleged in the claim petition of IP No.19 to 22 and 24 to 28?*

2. *Was the land in question allotted to IP No.19 to 22 and 24 to 28 in any family arrangement? OP-IP No.19 to 22 and 24 to 28*

30. The onus to prove these issues were on IP No.19 to 22 & 24 to 28. However, these IPs did not lead any evidence in support of their claims and to controvert the claim of other IPs. No documentary evidence has also been produced on record. In

view of the same, it is held that IP No.19 to 22 & 24 to 28 have failed to prove these issues. Consequently, these issues are decided against IP No.19 to 22 & 24 to 28.

ISSUE NO.4

Have Ram Kishan and Hari Kishan, IPs been owners in possession of the land in question on the date of the acquisition? OP-Ram Kishan and Hari Kishan, IPs

31. Onus to prove this issue was on Ram Kishan and Hari Kishan, IPs. In their claim filed before this court, it was submitted that they and their deceased father are the owners in possession of the acquired land bearing Khasra Nos.2943/1679, 2947/1674, 2925/2746, 2077/1679 and 2929/2079/1680 measuring 105 bighas 3 biswas and after the demise of their father, in terms of the Will executed by him in their favour, they have become entitled for the compensation of the acquired land. However, no documents i.e. Will or any official record in respect of their ownership on the acquired land have been filed on record. Even they have failed to lead any evidence in this regard. In view of the same, this issue stands decided against them.

ISSUE NO.3

Have Rajinder Pd., Shiv Hari and Kishan Chand, IP Nos.38 to 40 been owners in possession of the land in question till the date of its acquisition?OP-IP No.38 to 40

32. IP No.38 to 40 were burdened to prove this issue. The contesting IPs have put forth a two fold arguments. First limb of the argument asserts that prior to the coming into force of Delhi Land Reforms Act, the predecessors in interest of the contesting IPs were recorded as owners of the acquired land. To prove this assertion, copy of the Jamabandi of the year 1949-50 has been exhibited as Ex.RW5/C. In support of his submission Learned counsel placed reliance on a Division Bench judgment of the Hon'ble High Court of Delhi titled as ***Behari & Ors vs. UOI Etc.*** 47 (1992) DLT 300 (DB) wherein the Hon'ble DB relied on entry in Khasra Girdawari to hold that appellant had acquired the bhumidari rights. Stretching the first limb of argument, it was further contended that GaonSabha Mehrauli never existed since it was urbanized even prior to acquisition of land in question. It was also argued that the acquired land never came to be vested in GaonSabha Mehrauli since no order passed under Section 154 of the DLR Act, was ever served on the IPs. It was contended that Order under Section 154 of the DLR Act is a mandatory

requirement under the Act for vesting of any land in Gaon Sabha.

33. The second limb of the argument contends that even assuming that the acquired land came to be vested in Gaon Sabha Mehrauli, the contesting IPs were never evicted from the acquired land i.e. till its possession was taken in 1968 and consequently, they acquired Bhumidari Rights under Section 85 of the D.L. R. Act.

34. In so far as the first limb of the argument is concerned i.e. Gaon Sabha Mehrauli never existed, the same is not tenable for the following reasons. The evidence led by the contesting IPs itself shows that the eviction proceedings were initiated against them for being unauthorized occupants of (acquired) land of the Gaon Sabha. Contesting IPs have placed strong reliance on Ex.RW1/1 (Ex.PW9/1) and Ex.RW2/1 which was exhibited in the suit for declaration filed by one of the IPs i.e Deep Chand against UOI. Ex.RW1/1 (Ex.PW9/1) is a letter dated 22.07.1967 addressed to the Court of Sh. B. B. Tandon, S.D.M./R.A. Delhi written by Under Secretary (Revenue), Union of India, vide which information with regard to the encroachment upon the Gaon Sabha land and its non vacation despite repeated efforts by Ram Kishan, Hari Kishan both S/o Pt. Janki Parshad; Deep Chand S/o Shiv Ram; Rajinder, Krishan, Shib Hari all S/o Bhagwan Parshad; Devi W/o Manphool; and Rishi, Ballu, Maya all minors children of Manphool through Devi their mother and nearest friend. It was further submitted in the letter that the

aforesaid persons were liable for eviction from that land and a request for action under Section 86-A of Delhi Land Reforms (Amendment) Act, 1965 was made. This suit was filed after eviction proceedings were initiated against IP Rajinder Prasad, IP Krishan Chand, IP Shiv Hari, IP Harikishan and IP Ram Kishan. Though, Learned counsel for the UOI has placed reliance on a judgment cited as *Gaon Sabha & Anr. Vs Nathi & Ors (2004) 110 DLT 549* which held that after coming in force of the DLR Act, all waste land in a Village i.e. banjer kadim, gair mumkin pahar shall vest in the Gaon Sabha, the contesting IPs have claimed rights to the acquired land under the DLR Act itself i.e. Section 85 DLR Act.

35. Even though the nature of land is not in dispute, there is force in the argument of Learned counsel appearing for IP No.38 (c), legal heirs of IP No.39 and IP No. 40 to the effect that the contesting IPs were in unauthorized occupation of the acquired land after vesting of the same in Gaon Sabha Mehrauli, and since these IPs were not evicted from the said land, they acquired Bhumidari rights under Section 85 of the D. L. R. Act as they were in continuous possession of the acquired land as unauthorized occupants for more than 3 years and the same was within the knowledge of the Gaon Sabha. Section 85 of the DLR Act is reproduced as under:

**“85. Failure to file suit under Section 84
or to execute obtained thereunder-**

If the suit is not brought under Section 84 or a decree obtained in any such suit is not executed within the period of limitation provided for failing of the suit or execution of the decree, the person taking or retaining possession shall-

- (i) where the land forms part of the holding of a Bhumidhar, become a Bhumidhar thereof;
- (ii) where the land forms part of the holding of an Asami on behalf of the Gaon Sabha, become an Asami thereof;
- (iii) in any case to which the provisions of clause (b) of (sub-section (1) of Section 84) apply, become a Bhumidhar or Asami as if he had been admitted to the possession of the land by the Gaon Sabha.

Provided that if in the revenue records of the fasli year ending on the 30th June, 1954, the land referred to in clause (iii) was not included in the holding of the person taking or retaining possession or his predecessor-in-interest, or was not recorded as being in the cultivation of such

person or his predecessor-in-interest, then, notwithstanding the expiry of the aforesaid period of limitation for such suit or decree, the suit may be filed or the decree obtained in such suit may be executed with a period of three years from the date of passing of the Delhi Land Reforms (Amendment) Act, 1965.

Provided further that the benefit of the extension of the period limitation under the preceding proviso shall not be availed of in any case where a person who has become a Bhumidhar in respect of any land under clause (iii) has transferred such land to another person for valuable consideration before the 10th May, 1965.”

36. The relevant document in this regard to show that IP No.39 to 40 were in unauthorized occupancy and were never evicted therefrom, is Ex.RW1/1. Even though claim was filed on behalf of Gaon Sabha Mehrauli, no evidence has been led at all on its behalf. As a corollary, no evidence has been led to show that IP No.38 to 40 were ever evicted from the acquired land. Consequently, though IP Nos. 38 to 40 have not been able to prove their ownership since proprietary rights in any case were

extinguished after the commencement of Delhi Land Reforms Act 1954, they have been able to prove that they acquired Bhumidari rights under Section 85 of the DLR Act.

RELIEF

37. In view of the above discussion, it is held that the compensation amount in respect of Khasra No.2929/2079/1680/3 for an area measuring 5 Bigha 11 Biswas i.e. as per the evidence by way of affidavit of IP No.40 be apportioned amongst the legal heirs of IP No.38 & 39 and IP No.40. Since the remaining IPs have not been able to prove their claim over the compensation amount, hence District Nazir is ordered to send back the balance amount to the LAC (South) for appropriate action. Thereafter, file be consigned to the record room after necessary compliance.

**ANNOUNCED IN THE OPEN
COURT ON 29.11.2017**

**(DR. AJAY GULATI)
ADDL. DISTRICT JUDGE-02
SOUTH, SAKET COURTS,
NEW DELHI**

LAC No.102/2016
UOI vs. Gaon Sabha Mehrauli & Ors.

29.11.2017

Present: Sh. S. K. Puri, counsel for the UOI.
None for the IPs.

Vide separate judgment of even date, the present reference under Section 30-31 of the L. A. Act is answered and it is held that the compensation amount in respect of Khasra No.2929/2079/1680/3 for an area measuring 5 Bigha 11 Biswas i.e. as per the evidence by way of affidavit of IP No.40 be apportioned amongst the legal heirs of IP No.38 & 39 and IP No.40. Since the remaining IPs have not been able to prove their claim over the compensation amount, hence District Nazir is ordered to send back the balance amount to the LAC (South) for appropriate action.

File be consigned to the record room after necessary compliance.

(Dr. AJAY GULATI)
ADJ-02/SOUTH
SAKET/NEW DELHI
29.11.2017