



\$~8

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

+ W.P.(C) 9354/2022 and CM APPL. 28036/2022

ARORA PHARMA INDIA PRIVATE LIMITED

& ANR.

..... Petitioners

Through: Mr. Saurabh Kirpal, Sr.
Advocate with Mr. Siddharth
Bawa, Advocate

versus

GOVERNMENT OF NCT OF DELHI

& ORS.

..... Respondents

Through: Mr. Karn Bhardwaj, ASC,
GNCTD/ R-1, 3 and 4 with
Mr. Aayush Gautam and
Mr. Kartikay Bhaskar,
Advocates (Ph. 9818488194, e-
mail: gautamaayush27@gmail.com)

Mr. Siddharth Panda, Advocate
for R-2 (Ph. 9891488088, e-
mail: siddhupanda@gmail.com)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

27.02.2023

%

[Physical Hearing/ Hybrid Hearing]

1. In the present case, the issue for consideration is as to whether any No Objection Certificate (NOC) is required to be taken from the Revenue Authorities by the petitioner for registration of sale deed for the land in question in terms of The Delhi Lands (Restrictions on Transfer) Act, 1972.
2. Mr. Saurabh Kirpal, learned Senior Counsel appearing for the



petitioner submits that by judgment dated 01.12.2014 passed by this Court in *W.P. (C) No. 7263/2014* titled as *Arora Pharma India Pvt. Ltd. vs. Govt. of NCT of Delhi & Ors.*, acquisition of the land in question was declared to have deemed to have lapsed. *Civil Appeal No. 4571/2016* filed by the Delhi Government against the said judgment was also dismissed by Supreme Court vide its judgment dated 28.04.2016. Similarly, *SLP (C) 8839/2016* filed on behalf of DDA was also dismissed by Supreme Court vide order dated 03.05.2016.

3. Thus, it is submitted on behalf of petitioners that acquisition qua the land of the petitioners has already lapsed. Learned senior counsel for petitioners by relying upon various judgments passed by Coordinate Bench of this Court, submits that there is no requirement of taking any NOC from the Tehsildar, when the land in question is already free from acquisition.

4. Learned senior counsel for the petitioner relies upon the following judgments:-

“(i) Manzoor-ul-haq through his General Power of Attorney Holder Shri Satish Kumar Aggarwal Vs Government of NCT of Delhi and Ors., W.P.(C) 798/2019, decided on 25th October, 2021.

(ii) Dinesh Kumar Himatsingka & Anr. Vs Government of NCT of Delhi & Ors., W.P.(C) 7242/2017 decided on 06.09.2017.

(iii) Smt. Shashi Jai Krishna Vs Government of NCT of Delhi and Anr., W.P.(C) 9140/2022, decided on 11.10.2022

(iv) Manjesh Kumar Vohra Vs Government of NCT of Delhi and Ors., W.P.(C) 11318/2022, decided on 18.08.2022”



5. On the other hand, Mr. Siddharth Panda, learned counsel appearing for the respondent No. 2 has drawn the attention of this Court to Para 365 of the Constitutional Bench judgment in the matter of **Indore Development Authority vs. Manohar Lal and Ors., (2020) 8 SCC 129**, wherein it has been held as follows:

“365. Resultantly, the decision rendered in Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] is hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] has been followed, are also overruled. The decision in Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N., (2015) 3 SCC 353 : (2015) 2 SCC (Civ) 298] cannot be said to be laying down good law, is overruled and other decisions following the same are also overruled. In Indore Development Authority v. Shailendra [Indore Development Authority v. Shailendra, (2018) 3 SCC 412 : (2018) 2 SCC (Civ) 426] , the aspect with respect to the proviso to Section 24(2) and whether “or” has to be read as “nor” or as “and” was not placed for consideration. Therefore, that decision too cannot prevail, in the light of the discussion in the present judgment.”

6. Learned counsel for the respondents has further relied upon order dated 21.07.2022 passed by Hon’ble Supreme Court in S.L.P. (Civil) Diary No. 17623/2021, **Govt. of NCT of Delhi & Anr. Vs M/s BSK Realtors LLP & Anr.** wherein it has been held as follows:

“It is urged that the effect of such overruling is to efface all the orders, including passed by this Court relying on Pune Municipal Corporation (Supra).



It is further urged that such overruling had rendered those decisions nullity and cannot be given effect to in particular the direction to restore possession of the acquired land to the original landowners.

We need not dilate on other contentions raised before us.

Suffice it to observe that these matters require deeper examination, for which the same need to be placed before the three Judge Bench for hearing on 17.08.2022.

It will be open to the parties to get other connected matters involving aforesaid issue by pointing out this order to the Registry, which request may be considered by the Registrar (Judl.) for tagging of those cases along with these matters.

In the meantime, the parties are at liberty to file affidavits/additional documents.”

7. Learned counsel also submits that this Court by its order dated 14.12.2022 in W.P. (C) 5195/2022 has noted similar submissions and has refused to pass any order, awaiting the judgment of Supreme court in the case of **Govt. of NCT of Delhi & Anr. Vs M/s BSK Realtors LLP & Anr**, in S.L.P. (Civil) Diary No. 17623/2021.
8. Perusal of the aforesaid judgment of the Constitution Bench of Supreme Court clearly manifests that by way of the said judgment, the Supreme Court has not only overruled its earlier judgments in the cases of **Pune Municipal Corporation, (2014) 3 SCC 183** and **Shree Balaji Nagar Residential Association, (2015) 3 SCC 353**, but also overruled all the other decisions that were passed on the basis of the aforesaid judgments.
9. In the present case also, the judgment dated 01.12.2014 passed in W.P. (C) 7263/2014 by Division Bench of this Court with respect



to land of the petitioners, was also passed on the basis of the judgments in the cases of *Pune Municipal Corporation (supra)* and *Shree Balaji Nagar Residential Association(supra)*. Thus, as per the contention of Mr. Siddharth Panda, all the said judgments in favour of the petitioner by the Division Bench of this Court as well as by Hon'ble Supreme Court, stand overruled in view of the Constitution Bench judgment in the case of *Indore Development Authority (Supra)*.

10. Mr. Karn Bhardwaj, Additional Standing Counsel for GNCTD submits that the requirement of NOC from Tehsildar is not only with respect to the issue of whether or not the land has been acquired, but also on other aspects like the land being under the ownership and jurisdiction of the Forest Department.

11. At this stage, Mr. Saurabh Kirpal, learned Senior Counsel relying on the doctrine of merger, submits that the Constitution Bench judgment would not be applicable to the present case, as disputes between the parties have attained finality. He submits that since the inter-party dispute has already attained finality, therefore, the respondents cannot place any reliance on the decision of the Constitution Bench as aforesaid. He submits that he may be granted some time to address on the issue.

12. At request, re-notify on 12.04.2023.

MINI PUSHKARNA, J

FEBRUARY 27, 2023/PB