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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 10318/2023 & CM Appls.39912/2023 and 2688/2024

M/S PRIYANKA OVERSEAS PVT. LTD. Petitioner

Through: Mr. N.S. Vashisht, Ms. Jyoti Kataria
and Mr. Madhur P. Bhargava, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Manish Kumar, SPC with Mr.
Rishav Dubey, GP for R-1.
Mr. Rajneesh Sharma, Adv. for R-2
and 3.
Ms. Manika Tripathy, Standing
Counsel with Mr. Aishwary Jaiswal,
Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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05.02.2024

1. The petitioner has filed the present petition, *inter alia*, praying as under:

“(i) issue a writ of certiorari and/or any other writ, order or direction of the similar nature quashing the impugned acquisition proceeding including the impugned notification No.F.9(12)/95/L&B/9743 dated 27.06.1996 issued under Section 4 of the Old Act and Public Notice dated 21.11.2012 in respect to the 32 Bighas 16 Biswas of the land of the Petitioner comprised in Khasra no. 1391, 1392, 1393, 1401, 1402, 1403 and 1404 situated in the revenue estate of Village Malikpur Kohi @ Rangpuri, Tehsil Mehrauli, NCT of Delhi.”

2. It is the petitioner's case that the notification issued under Section 6 of the Land Acquisition Act, 1894 (**hereafter “the old Act”**) and the action

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taken under Section 17 of the old Act in respect of the subject land was quashed by the Supreme Court by an order dated 21.03.2012 in a batch of matters, the lead matters being *Govt. of NCT of Delhi v. Geeta Batra & Ors.*; (Civil Appeal No. 2997/2012) and *Govt. of NCT of Delhi v. Shri Ballab Marbles & Ors.*; (Civil Appeal No.2995/2012).

3. The petitioner is aggrieved on account of the respondents persisting on taking over the subject land pursuant to the notification issued under Section 4 of the old Act.

4. It is seen that the grounds as urged today were also urged by the petitioner in an earlier writ petition, that is W.P.(C) 6778/2014. The said writ petition was allowed by an order dated 17.08.2017 on the ground that the compensation in respect of the subject land was not tendered or paid to the recorded owners. Thus, following the decision in the case of ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & Ors.: (2014) 3 SCC 183***, the acquisition of the subject land was held to have lapsed. The said order was carried in appeal before the Supreme Court in Civil Appeal being CA No.002546 of 2023 captioned ***Delhi Development Authority v. Priyanka Overseas Pvt. Ltd. & Ors.***

5. By an order dated 10.04.2023 passed in the said appeal, the Supreme Court had held that the acquisition in question had not lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**hereafter “the new Act”**) and set aside this court’s order 17.08.2017.

6. It is relevant to note that this Court by order dated 17.08.2017 held that the acquisition had lapsed after noting that the compensation in respect
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of the subject land had not been paid and the possession was not taken over. The Supreme Court in the order dated 10.04.2023 had noted the respondents' contention that the possession of the subject land could not be taken over due to interim stay/*status quo* order passed by the Supreme Court. Thus, following the decision in the case of ***Indore Development Authority v. Manoharlal & Ors.: 2020 (8) SCC 129***, the acquisition was not deemed to have lapsed on account of the possession not being taken over due to a stay/*status quo* order.

7. The learned counsel appearing for respondent no.4 – Delhi Development Authority (DDA) submits that after the Supreme Court's decision on 10.04.2023, it had taken over the possession of the subject land on 24.08.2023.

8. In view of the above, the principal question that arises for consideration is whether the present petition is maintainable. Undisputedly, the grounds urged for challenging the subject notification under Section 4 of the old Act were also the grounds on which the acquisition was challenged by the petitioner in W.P.(C) 6778/2014. However, the order dated 17.08.2017, whereby the petition was disposed of, expressly recorded that the "*petitioner's plea is being considered /restricted only under Section 24(2) of the Act*". Thus, it is contended on behalf of the petitioner that other grounds urged in the petition have not been foreclosed.

9. The learned counsel appearing for DDA shall respond to the aforesaid contention on the next date of hearing.

10. Both parties are at liberty to place the authorities relied upon by them.

11. The learned counsel appearing for DDA is also granted an opportunity

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to file the counter-affidavit traversing the averments made in the present petition. Rejoinder, if any, be filed before the next date of hearing.

12. List on 07.03.2024.

13. Considering the DDA's statement that possession of the subject land has already been taken over, the order dated 16.01.2024 is vacated.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

FEBRUARY 5, 2024

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[Click here to check corrigendum, if any](#)

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