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

+ **W.P.(C) 2116/2015**

M/S MASSOM APPARTMENTS PRIVATE LIMITED

..... Petitioner

Represented by: Mr. Gaurav Sarin, Ms. Charul Sarin & Mr. Harish Kumar, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Represented by: Mr. Siddharth Panda, Advocate for LAC and L&B.
Mr. Nitin Mishra, Advocate for DDA.
Mr. Gigi C. George, Advocate for R-4&5/UOI.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **29.04.2022**

1. Learned counsel for the petitioner contends that the present petition relates to the notification dated 25th November, 1980 issued under Section 4 of the Land Acquisition Act, 1894 (in short 'the Act, 1894') in relation to the land, comprising 11 Bighas and 2 Biswas, falling in Khasra No. 340, situated in the Village Maidan Garhi, Tehsil Mehrauli, Delhi, followed by a declaration under Section 6 of the Act, 1894 dated 18th June, 1985 and the Award No. 23/87-88 dated 16th June, 1987. However, the said acquisition proceedings were quashed by the Division Bench of this Court in the decision reported as (1989) 39 DLT 233, Balbir Singh vs. Union of India. On the basis of Balak



Ram Gupta's decision, the petitioner purchased the subject land by three separate registered sale deeds *ad measuring* 11 Bighas and 2 Biswas, falling in Khasra No. 340, situated in the Village Maidan Garhi, Tehsil Mehrauli, Delhi on 17th May, 1996 whereafter, the petitioner became the recorded owner. The Government of NCT of Delhi acted upon the judgement in the case of Balbir Singh (supra) and amended the revenue entry in the Khatauni, adding the name of the petitioner in respect of the land and passing three separate orders, sanctioning the mutation of sale. Sanction was also granted to the petitioner for construction of a farmhouse on the said land and occupancy certificate issued.

2. Learned counsel for the petitioner states that in view of the subsequent decision in Abhey Ram & Ors vs. Union of India & Ors. (1997) 5 SCC 421 passed by the Hon'ble Supreme Court, the decision in Balbir Singh (supra) was held to be limited to the petitioners therein and not to be applied therein relating to other proceedings. He states that in view thereof the petitioner continues to be in possession of the subject land and thereafter, the possession of the subject land was taken from the petitioner on 06th October, 2009.

3. As per the writ petition itself, the symbolic possession of the property was taken on 16th July, 1987 and the decision in Balbir Singh (supra) case not being applicable to the petitioner as held by the Hon'ble Supreme Court, the petitioner cannot claim benefit thereof and hence the present petition will be covered by the decision of the Constitution Bench of the Hon'ble Supreme Court reported as (2020) 8 SCC 129, Indore Development Authority vs. Manhorlal & Ors.



4. A perusal of the additional affidavit filed by the respondents would reveal that though the compensation amount was deposited in the RD, however, subsequently, the same was also withdrawn vide RV No. 1370 dated 15th April, 1993 in favour of the Award No. 1/93-94 of Village Kakrola announced on 02nd April, 1993. However, the LAC claims that it had sufficient amount in his bank to have paid the compensation.
5. An additional affidavit will be filed by the LAC indicating whether the petitioner filed the necessary application along with the documents thereto, seeking compensation pursuant to the acquisition of the land.
6. List this petition on 30th August, 2022.
7. Order be uploaded on the website of this Court

MUKTA GUPTA, J.

NEENA BANSAL KRISHNA, J.

APRIL 29, 2022

S.Sharma