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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 4987/2018 & CM No.59443/2023

SMT. PREETI AGGARWAL AND ANR.

..... Petitioners

Through: Mr. Rajiv Kumar Ghawana, Adv.
with Mr. Neelaksh Sharma, Adv.

Versus

DELHI DEVELOPMENT AUTHORITY AND ANR... Respondents

Through: Ms. Shobhana Takiar, SC with Mr.
Keshav Sehgal, Mr. Shivam Kumar
and Mr. Kshitij Joshi, Advs. for R-
1/DDA.

Ms. Ruchika Rathi and Ms. Varsha
Agarwal, Advs. for R-2/LAC.

Ms. Mehak Nakra, ASC(Civil)
GNCTD with Mr. Abhishek K. and
Ms. Disha Chaudhary, Advs. for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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06.02.2024

CM No.59443/2023

1. For the reasons stated in the application, the same is allowed.
2. Petitioner no.1, Smt. Preeti Aggarwal, is deleted from the array of parties as she is stated to have gifted the subject property to the other petitioners.
3. Let the amended memo of parties be filed within one week from date.
4. The application is disposed of.

W.P.(C) 4987/2018

5. The petitioners have filed the present petition, *inter alia*, praying as



under:

- “A. Issue a writ, or order declaring that the petitioners have been deprived of their land in violation of the constitutional right as guaranteed under Article 300-A of the Constitution of India; and
- B. Issue a writ or order declaring that the possession of the Respondent No. 1 in respect of the land of the petitioners is in violation of Article 300-A of the Constitution of India; and
- C. Issue a writ, order or declaration declaring that the land of the petitioners is free from acquisition as acquisition proceedings initiated by virtue of Section 4 Notification read with Section 17(1) and 17(4) of the Land Acquisition Act 1894 dated 27.9.2002 stand lapsed in the absence of any Section 6 declaration or award; and
- D. Issue a writ, of mandamus directing the respondents to acquire the land forming part of Khasra No.47/2 min admeasuring 2 bigha 03 biswa situated in Village Barwala, which has been illegally occupied and utilized by the respondents under "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" and award and pay compensation in terms of the provisions of the said act; and
- E. issue a writ of Mandamus directing the Respondent No. 2 to determine the damages for wrongful use and occupation of the land forming part of Khasra no.47/2min admeasuring 2 bigha 03 biswa situated in the Village Barwala, Delhi from the date of possession till the date notification under Section 11 of “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”
- F. pass a writ, order or direction directing the respondents to pay damages for wrongful occupation of land forming part of Khasra No.47/2 min admeasuring 2 bigha 03 biswa situated in Village Barwala, Delhi from the date of possession till the date of issuance of notification under Section 11 of “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”; and
- G. Issue a writ order of mandamus directing the respondent no.1 DDA to vacate the land occupied by it forming part of Khasra No.47/2 min admeasuring 2 bigha 03 biswa situated in Village Barwala, Delhi and restore back the possession of the land to the petitioners after restoring it to its original position by removing the construction raised on the land; and”

6. It is the petitioners’ case that a part of their land falling in Khasra



No.47//2 min admeasuring 2 Bigha 3 Biswa situated in village Barwala, Delhi has been taken over by the concerned Department and a road has now been constructed on it. The status report filed by the Tehsildar, District Narela, confirms that the area of Khasra No.47//2 (2-03) situated in village Barwala has not been acquired. It is also stated that the land in Khasra No.47//2 (2-03) is entered in the name of Smt. Preeti Aggarwal, wife of Shri Vijay Aggarwal, resident of C-225, Prashant Vihar, Delhi-10085.

7. The counter-affidavit filed on behalf of respondent no.2 – Land Acquisition Collector (LAC) – also affirms that the land bearing Khasra No.47//2 (2-03) has not been acquired¹.

8. In the affidavit filed on behalf of respondent no.1, Delhi Development Authority (DDA), it is affirmed that area admeasuring 0-15 out of Khasra No.47/2 (2-03) has been used for construction of a road. The remaining area admeasuring 1-8 is lying vacant.

9. In view of the above, there is no dispute as to the facts on which the present petition is founded. The same being that the petitioners' land [Khasra No.47//2 (2-03) in village Barwala] has not been acquired and the petitioners have been deprived of the possession of the same.

10. In view of the above, the present petition is required to be allowed and the petitioners are required to be compensated for being deprived of the land.

11. *Prima facie*, in the event that the LAC wishes to acquire the land in question, it would be required to pay the compensation for the period commencing from the date from which the petitioners were deprived of the

¹ Paragraph 6 of the affidavit affirmed on 29.11.2018



possession of the land till the date it is acquired and further compensation for the value of the land. In the event, the LAC does not wish to acquire the said land, the same is required to be returned to the petitioners and the petitioners would be entitled to compensation for the petitioners being deprived of the same.

12. The final opportunity is granted to the learned counsel for the respondents to take instructions in this regard and file an affidavit as to the future action proposed in regard to the subject land.

13. Let the said affidavit be filed within the period of two weeks from date.

14. List on 21.03.2024.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

FEBRUARY 06, 2024

‘gsr’

Click here to check corrigendum, if any