

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.4478 OF 2013

MUNICIPAL CORP.OF DELHI & ANR.

... APPELLANTS

Versus

KIRPAL SINGH AND KARAM SINGH & ORS.

... RESPONDENTS

WITH

C.A. No.4479/2013

O R D E R

1. Delay condoned.
2. The application for setting aside abatement and the application for substitution are allowed.
3. Cause-title be amended accordingly.
4. These two Civil Appeals are at the instance of the Municipal Corporation of Delhi and its authorities, challenging the judgment and order dated 09.02.2009 and 27.03.2009, passed by the Division Bench of the High Court of Delhi, whereby directions have been issued that the process of acquisition may be completed, but possession of the acquired land shall not be taken until the question of regularization of unauthorized colonies is finally decided by the competent authority.
5. Broadly, the undisputed facts are that the NCT of Delhi acquired land to give effect to a scheme to be implemented by the appellant - Corporation for developing Truck Repairing/Servicing-

cum-Shopping Complex at Samalka, Delhi-Gurgaon Road. The acquisition was completed through an Award passed on 19.09.1986. However, before the possession could be taken, the ex-propriated owners approached the High Court, which passed an order to maintain *status quo* with regard to construction and possession. Meanwhile, in anticipation of getting possession of the acquired property, the appellants carved out plots to give effect to the scheme, referred to above, and made allotments in favour of the respondents. The respondent - allottees also initiated separate proceedings to obtain possession of the allotted plots considering that there was a lapse of 20 years in handing over the possession. It may, thus, be seen that there arose three types of proceedings before the High Court, namely, (i) Challenging the acquisition of the properties in dispute; (ii) Seeking regularization of the unauthorized construction raised at the site; and (iii) Delivery of possession of the plots carved out by the Corporation to implement the development scheme.

6. It is in this backdrop that a Division Bench of the High Court, vide the impugned order dated 27.03.2009, directed the appellants to examine as to whether the unauthorised colonies in question can be regularised under the scheme, keeping in view the judicial orders which had already been passed in that regard. The High Court further allowed the respondent - writ petitioners to seek remedy against the appellants for claiming alternative sites and/or any other relief, as may be permissible under the law.

7. We have heard learned counsel for the parties including Mr. Vikramjit Banerjee, learned Additional Solicitor General

appearing on behalf of the Union of India and carefully perused the material placed on record.

8. It is evident that different sets of writ petitions seeking quashing of the acquisition or regularization of the unauthorized constructions and/or a direction to hand over possession of the allotted sites have been listed before different Benches at different point of time. This has resulted into issuance of somewhat contradictory directions which the authorities may find difficult to give effect to. For instance, the allottees cannot be handed over possession of the plots under the new scheme unless physical possession of the acquired property is allowed to be taken over by the appellants free from all encumbrances. Similarly, if the competent authority decides to regularize the unauthorized construction, the allottees cannot be handed over plots under the proposed scheme though they might be entitled to some alternate relief for which liberty has been granted by the High Court vide the impugned judgment. In such peculiar facts and circumstances, it appears to us that the High Court need to re-visit the issues raised in all the sets of writ petitions, referred to above, and take a holistic view in respect of the validity of the acquisition, regularization of unauthorized construction and/or the nature of some alternative relief that can be granted to the allottees under the development scheme.

9. Consequently, we allow these appeals in part; set aside the impugned orders and remit the case to the High Court for fresh adjudication of all the issues by way of a common order.

10. We are informed that some of the writ petitions/LPAs,

pertaining to one or the other issue, are still pending consideration before the High Court. It would, thus, be appropriate to consolidate all the writ petitions/appeals and list them before one appropriate Bench.

11. The parties are directed to appear before the High Court on 28.08.2023. The appellants shall furnish the details of all the relevant pending cases, referred to above, before the High Court on the date of appearance. The High Court is requested to consolidate all the cases and decide them by way of a common order.

12. Since the subject acquisition is of the year 1986, and the ex-propriated owners as well as the allottees are awaiting for decades to see the final outcome of this lis, we request Hon'ble the Chief Justice of the Delhi High Court to post the matters for hearing immediately, with a further request to the Bench to decide the same expeditiously, and preferably within six months from the date of receipt/production of a copy of this order.

13. It is clarified that we have not expressed any opinion on the merits of the case.

.....J.
(SURYA KANT)

.....J.
(M.M. SUNDRESH)

NEW DELHI;
JULY 19, 2023.

ITEM NO.107

COURT NO.5

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).4478/2013

MUNICIPAL CORP.OF DELHI & ANR.

Appellant(s)

VERSUS

KIRPAL SINGH AND KARAM SINGH & ORS.

Respondent(s)

WITH

C.A. No. 4479/2013 (XIV-A)

(FOR APPLICATION FOR SUBSTITUTION ON IA 55531/2023
FOR CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN. ON IA
55532/2023

FOR APPLICATION FOR ABATEMENT ON IA 55534/2023

IA No. 55534/2023 - APPLICATION FOR ABATEMENT

IA No. 55531/2023 - APPLICATION FOR SUBSTITUTION

IA No. 55532/2023 - CONDONATION OF DELAY IN FILING SUBSTITUTION
APPLN.)

Date : 19-07-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s) Mr. Praveen Swarup, AOR
Ms. Payal Swarup, Adv.
Ms. Pratishtha Majumdar, Adv.
Mr. R.k. Singh, Adv.
Mr. Hari Sahteshwar, Adv.
Mr. Rahul Tomar, Adv.
Mr. Chandra Pratap Singh, Adv.

For Respondent(s) Mr. Vikramjit Banerjee, A.S.G.
Mr. Amrish Kumar, AOR
Mrs. Baby Devi Bonia, Adv.
Mrs. Swarupama Chaturvedi, Adv.
Mrs. Ruchi Kohli, Adv.
Mr. Digvijay Dam, Adv.

Mr. Kamal Mohan Gupta, AOR
Mr. Bhagwan Jee Thakur, Adv.
Mr. Sagar Roy, Adv.
Mr. Dharmsheela, Adv.
Mr. Kishor Kumar Mishra, Adv.
Mr. Avtar Singh, Adv.

Mr. Ansh Singh Luthra, Adv.
Ms. Adity Mishra, Adv.
Mr. Amar Kumar Raizada, Adv.

Mr. Gurmeet Singh Makker, AOR

Mr. Shreekant Neelappa Terdal, AOR
Mr. K.parameshwaran, Adv.
Ms. Baby Devi Bonia, Adv.
Ms. Swarupama Chaturvedi, Adv.
Ms. Ruchi Kohli, Adv.
Mr. Digvijay Dam, Adv.
Dr. N. Visakamurthy, Adv.

Mr. Ashwani Kumar, AOR
Mr. Anshay Dhatwalia, Adv.

Ms. Promila, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. The application for setting aside abatement and the application for substitution are allowed.
3. Cause-title be amended accordingly.
4. The appeals are allowed in part in terms of the signed order.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed order is placed on the file)