

ITEM NO.37

COURT NO.11

SECTION XIV

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

IA 1-6/2010 in Petition(s) for Special Leave to Appeal  
Civil)..../2010 CC 17526/2010

(From the judgement and order dated 11/05/2010 in WPC No. 1543/1982  
of The HIGH COURT OF DELHI AT N. DELHI)

MADAN LAL NANGIA & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(For substitution and permission to file SLP and c/delay in filing  
substitution and office report)

Date: 03/01/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Ms. Shobha, Adv.

For Respondent(s)

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

I.A. No.8 of 2010 is allowed and delay in bringing on  
record the legal representatives of Puran Chand Nangia and  
Inder Dev Nangia, both of whom were petitioners before the  
High Court is condoned.

I.A. No.7 of 2010 is allowed and permission is granted  
for bringing on record the legal representatives of Puran  
Chand Nangia and Inder Dev Nangia.

I.A. Nos.1 to 6 of 2010 are allowed and permission is

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granted to the legal representatives of the deceased writ  
petitioner to file the special leave petition.

Delay in filing the special leave petition is condoned.

This petition is directed against order dated 11.5.2010  
passed by the Division Bench of the Delhi High Court whereby  
Writ Petition (C) No.1543 of 1982 filed by the petitioners  
and/or their predecessors for quashing Notification dated  
23.1.1965 issued under Section 4 of the Land Acquisition  
Act, 1894 was dismissed.

We have heard Ms. Shobha, learned counsel for the  
petitioners and carefully perused the record. We have also  
gone through the judgment of this Court in Delhi  
Administration v. Madan Lal Nangia, (2003) 10 SCC 321,  
whereby the matter was remitted to the High Court for fresh  
consideration of the issue relating to acquisition of land  
in khasra Nos.313, 319, 323, 324 and 329 of the revenue  
estate of village Pul Pehlad, Mehrauli, New Delhi.

A perusal of the record shows that even though this

Court had been liberty to the parties to file additional affidavit/documents, neither the petitioners nor respondents availed that opportunity. The Division Bench of the High Court, after adverting to the directions given by this Court and briefly noticing the factual matrix of the case, dismissed the writ petition by recording the following observations:

"The legal controversy relating to property vesting with the custodian already stands decided by that judgment since it has been held that the Central Government could acquire property which vested with the custodian. The petitioners have brought nothing on record to show that khasra

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Nos.313, 319, 323, 324 and 329 were acquired by the Notification of 7.7.1955. In fact, it could not be so if they were composite properties. No other material has been placed on record to substantiate the plea on the basis of which a further inquiry had to be held by this Court. The further inquiry would have proceeded only if the the petitioners would have filed any additional affidavit/documents as envisaged in para 25 of the judgment dated 8.10.2003. Learned counsel for the petitioners before us also, and rightly so, does not dispute that the aforesaid khasra numbers are composite properties. He, however, submits that the Notification dated 7.7.1955 be examined. The said Notification has been reproduced in the judgment itself and composite properties have been carved out under that Notification. The position, thus, is that khasra numbers continued to maintain a character of composite property on the date of Notification under Section 4 of the said Act, i.e. 23.1.1965. If that be the position then there is no difference between the nature and character of these khasra numbers and other khasra Nos.321 and 322 for which acquisition has been upheld by the judgment dated 8.10.2003. We can see no impediment as to why in a composite property where both the interests of the private owner and of the custodian can be acquired under Section 4 of

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the said Act (no specific exemption has been made in the Notification under Section 4 of the said Act in respect of evacuee property), the land cannot be acquired.

The result is that we find no merit in the plea of the petitioners in respect of khasra Nos.313, 319, 323, 324 and 329 insofar as their acquisition under the said Act is concerned and the petitioners would be entitled to monetary benefits as in khasra Nos.321 and 322, all the khasra numbers being at par insofar as the acquisition of the land is concerned."

In our view, the reasons assigned by the High Court for holding that the case of the petitioners is similar to the

land owners of Khasara Nos.321 and 322 do not suffer from any legal infirmity and the impugned order does not call for interference under Article 136 of the Constitution.

The special leave petition is accordingly dismissed.

(A.D. Sharma)  
Court Master

(Phoolan Wati Arora)  
Court Master