

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).2362 OF 2018
(Arising out of S.L.P.(C) No.27383 of 2015)

DELHI DEVELOPMENT AUTHORITY ..APPELLANT(S)

VERSUS

MUNNI LAL & ORS. ..RESPONDENT(S)

WITH

CIVIL APPEAL NO(S).2363 OF 2018
(Arising out of S.L.P.(C) No.27389 of 2015)

DELHI DEVELOPMENT AUTHORITY ..APPELLANT(S)

VERSUS

SWARUP SINGH & ORS. ..RESPONDENT(S)

J U D G M E N T

ARUN MISHRA, J.

1. Leave granted.

2. These appeals have been preferred by the Delhi Development Authority (for short, "the DDA") aggrieved by the judgment and order dated 25.11.2014 passed by the High Court of Delhi at New Delhi declaring that as the

physical possession has not been taken, the acquisition has lapsed under the provision of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as "the Act of 2013"). The facts, in short, indicate that notification under section 4 was issued on 5.4.1995 for the acquisition of land for construction of Freight Complex (Narela) under Planned Development of Delhi. The emergency provision of sub Section 1 of section 17 read with section 17(4) was invoked. It was ordered that the provision of section 5 A shall not apply. Declaration under section 6 was issued on 22.12.1995 for the purpose of acquisition of land and the award was passed on 19.12.1997.

3. The petitioners-therein have filed writ petitions in the year 1996, however, they have withdrawn the same in 2012 with prayer seeking liberty to file fresh writ petition for quashing of the order rejecting the prayer with respect to de-requisition of land passed on 19.04.2012. Thereafter, fresh writ petitions have been filed in the year 2012. During the pendency of the writ applications, the Act of 2013 came into force. The High

Court has quashed the acquisition; hence, the appeals have been preferred.

4. With respect to whether acquisition had lapsed by virtue of the provisions contained in section 24 of the Act of 2013, the matter was referred to a larger bench and the reference has been answered by three Judge Bench of this Court in *Indore Development Authority vs. Shailendra (Dead) Thr. Lrs. & Ors.* (Civil Appeal No.20982 of 2017) on 8.2.2018. In view of the answers to the questions, the impugned orders quashing the acquisition on the ground of Section 24 are liable to be quashed and are set aside.

5. On merits of the case, the submissions raised on behalf of the land owners are two-fold that when the declaration under section 6 was issued after eight months inquiry under section 5 A ought to have been held. Thus, invocation of the urgency provision could not be said to be proper. There was non-application of mind in respect of invoking the provision under section 17 of Act of 1894. The second submission is that certain other area has been de-notified on 31.5.1999 which was covered under the same notification and the farm/ house in question is

the only accommodation available with the respondents- herein which should have been de-notified. The rejection of the prayer for de-notification vide orders dated 19.4.2012 was illegal.

6. It was submitted on behalf of the learned counsel appearing for DDA that the acquisition was for Planned Development of Delhi for Freight Complex at Narela, which could not have been delayed as such invocation of urgency provision was proper. The Planned Development of Delhi could not have been delayed. Thus, notification of urgency provision under section 17(1) and to dispense with the inquiry under section 5 A was proper. While declining the derequisition of the land reasoned orders have been passed on 19.4.2012. No case for interference is made out on the grounds urged on behalf of the land owners.

7. Coming to the invocation of the urgency provision, in our opinion, when the public purpose of freight complex at Narela under Planned Development of Delhi was involved, obviously, there was urgency and the project was such that it could not have brooked any delay. Thus,

invocation of section 17 was proper. Merely by the fact that declaration under section 6 was issued in December, it could not be said that invocation of the urgency provision under section 17(1) and 17(4) was improper. The satisfaction of Lt. Governor as mentioned in the notification in the facts of the case was not appropriate considering the nature of the requirement. We are satisfied that notification under section 4 read with section 17(1) and 17(4) did not suffer with illegality.

8. Reliance has been placed on the decision of *Union of India & Ors v. Mukesh Hans etc.* 2004 (8) SCC 14. The decision cannot be said to be applicable as there was an earlier acquisition which was allowed to be lapsed by efflux of time. The authority who dispensed with the inquiry was not made aware of the fact, thus, the decision has no application. Reliance has also been placed on the decision of this Court in *Anand Singh & Anr. v. State of Uttar Pradesh & Ors.* 2010 (11) SCC 242. In the said case the identification of land was for Housing Colony. There was a gap of one year in declaration under section 6. However, the appellants were not granted any relief in the facts of the said case. It

was observed that section 17(4) should be invoked in appropriate cases. There is no dispute with the aforesaid proposition. However, in the instant case considering the nature of the requirement and facts of the case, we find that invocation of the urgency clause was appropriate.

9. Reliance has also been placed on the decision of this Court in *Ramdhari Jindal Memorial Trust v. Union of India & Ors*, 2012 (11) SCC 370. It was again a residential scheme which was involved and in the facts of the said case, this Court directed the inquiry to be made. The decision is of no application to the facts of the instant case. Reliance has also been placed on *Narain Govind Gavate & Ors. v. State of Maharashtra & Ors.* 1977 (1) SCC 133 which rather negates the case of respondents. Be that as it may, other cases relied upon are *Dev Sharan & Ors. v. State of U.P. Ors.* JT 2011 (3) SC 102, *State of Punjab & Anr. v. Gurdial Singh & Anr.*, 1980 (2) SCC 471, *Hari Ram & Anr. v. State of Haryana & Ors.*, 2010 (3) SCC 621, *Patasi Devi v. State of Haryana & Ors.*, 2012 (9) SCC 503. Each case has to be decided on its own facts. We find that there was an urgency in the present case and the

requirement was urgent as such the provision was rightly invoked in the case.

10. In the second round of the litigation the aforesaid question is being again raised, though permission was sought to withdraw the earlier writ petition with liberty *inter alia* to question the order relating to de-notification and accordingly, the liberty was granted. Facts remain that dilatory tactics have been adopted by respondents. There was no formal defect and it was not appropriate to withdraw writ petitions after so much period of 16 years. We are not satisfied on merits with respect to the submission raised by learned counsel for the land owners and they have clearly adopted delaying tactics.

11. When we come to the question of de-requisition it is apparent that the order dated 19.4.2012 in the matter of Swarup Singh clearly indicate that the representation dated 27.8.2010 was actively considered by the De-notification Committee in its meeting held on 22.7.2011. The Committee did not recommend the de-notification under section 48(i) of the Land Acquisition Act, 1894 as the land was required by the DDA for relocation of Chemical

Godowns and Development of Freight Complex at Narela under Planned Development of Delhi and the matter was placed before the Lt. Governor who after due consideration of the facts has rejected the prayer for de-notification of captioned land. Mind has been applied and considering the necessity, decision has been taken not to de-notify the land. The decision is appropriate and we find no infirmity in the same. Similar is the reasoning given in the case of Munnilal & Ors in the communication dated 19.4.2012. We find no infirmity in the same also.

12. Thus, in our opinion, the submissions urged on behalf of the land owners deserve to be rejected and appeals deserve to be allowed. Accordingly, we set aside the impugned order and allow these appeals. The writ petitions filed by the respondents before the High Court are ordered to be dismissed. No costs.

.....J.
(ARUN MISHRA)

.....J.
(AMITAVA ROY)

NEW DELHI
FEBRUARY 21, 2018

ITEM NO.1501
(For Judgment)

COURT NO.10

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).27383/2015

(Arising out of impugned final judgment and order dated 25-11-2014
in WPC No.4650/2012 passed by the High Court Of Delhi At New Delhi)

DELHI DEVELOPMENT AUTHORITY

Petitioner(s)

VERSUS

MUNNI LAL & ORS.

Respondent(s)

WITH SLP(C) No.27389/2015 (XIV)

Date : 21-02-2018 These matters were called on for pronouncement
of Judgment today.

For Petitioner(s) Ms. Binu Tamta,AOR

For Respondent(s) Mr. Kedar Nath Tripathy,AOR

Hon'ble Mr. Justice Arun Mishra pronounced the
judgment of the Bench comprising His Lordship and Hon'ble
Mr. Justice Amitava Roy.

Leave granted.

The appeals are allowed with no costs in terms of the
signed judgment.

Pending application, if any, stands disposed of.

(Sarita Purohit)
Court Master

(Suman Jain)
Branch Officer

(Signed Judgment is placed on the file)