

Anil Jain vs Union Of India And Ors on 12 December, 2024

Author: Prathiba M. Singh

Bench: Prathiba M. Singh, Amit Sharma

\$~49

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 14710/2021 & CM APPL. 46323/
ANIL JAIN

Through: Mr. Samar Bansal
Chaturvedi, Ad

versus

UNION OF INDIA AND ORS

Through: Mr. Rakesh Kumar
Sunil, Advocat
Mr. Sanjay Kum
Mr. Sunil Kuma
Akhtar, Advoca
GNCTD.
Mr. Nitin Mish

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% 12.12.2024

1. This hearing has been done through hybrid mode.

2. In the present petition, challenge was raised to the acquisition of the Petitioner's land measuring 2 Bighas and 3 Biswas situated in Khasra No. 1610/1195/558 in Village Bahapur, Delhi. The Petitioner sought vacant and peaceful possession of the subject land, however, the alternate prayer was for the Right to Fair Compensation and Transparency in terms of the provisions of Land Acquisition, Rehabilitation and Resettlement Act, 2013, and further directions were also sought for determining payment of the compensation.

3. The Petitioner had initially filed a writ petition i.e., W.P.(C) 6900/2014 titled as 'Anil Jain v. Union of India and Ors.' which was disposed of vide judgment dated 8th February, 2016 passed by Division Bench of this Court. Vide the said judgment, the ld. Division Bench had held that acquisition This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:17 proceedings had lapsed. The operative portion of the said judgment reads as under: -

"5. As a result the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared.

6. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs."

4. This decision was challenged before the Hon'ble Supreme Court by the DDA. Vide judgment dated 31st August, 2016, the appeal was dismissed in the following terms: -

"1. Leave granted.

2. The issue, in principle, is covered against the appellant by judgment in Civil Appeal No.8477 of 2016 arising out of Special Leave Petition (Civil) No.8467 of 2015.

3. This appeal is, accordingly, dismissed.

4. In the peculiar facts and circumstances of this case, the appellant is given a period of one year to exercise its liberty granted under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for initiation of the acquisition proceedings afresh.

5. We make it clear that in case no fresh acquisition proceedings are initiated within the said period of one year from today by issuing a Notification under Section 11 of the Act, the appellant, if in possession, shall return the physical possession of the land to the original land owner.

6. Pending applications, if any, stand disposed of."

5. The DDA then filed a miscellaneous application and sought a recall of the order dated 31st August, 2016. The same was pending This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:17 before the Hon'ble Supreme Court. In the meantime, the decision of the Hon'ble Supreme Court was rendered in GNCTD through its Secretary, Land and Building Department and Anr. v. M/s. K.L. Rathi Steels Limited and Ors., (2024) 7 SCC 315, in which various directions were issued in Paragraph 128 clarifying the position in respect of lands which were acquired and holding that no review petitions would be maintainable. Pursuant to the decision in KL Rathi (supra), the application filed by the DDA seeking modification/review of the order dated 31st August, 2016 was also rejected vide order dated 23rd October, 2024. The said order reads as under: -

"2. Learned senior counsel for the parties are ad idem that the issue involved in the instant case squarely falls within the ambit of our decision in Government of NCT of

Delhi through its Secretary, Land and Building Department & another vs. K.L. Rath Steel Limited and others, (2024) 7 SCC 315.

3. Consequently, the private respondents shall be entitled to compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in accordance with the procedure as explained in paragraph 128 of K.L. Rath (supra), which reads as follows:

128. Under the circumstances, dismissal of the RPs and miscellaneous applications would have been logical and we could have ended our judgment here by ordering so.

However, there is something more of a balancing act that needs to be done having regard to the disclosures that were made in course of progress of other proceedings before us, which followed immediately after judgment on this set of RPs and miscellaneous. This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:17 applications was reserved. Such other proceedings arose out of appeals carried from orders of the High Court declaring land acquisition proceedings as lapsed based on the decision in Pune Municipal Corporation (supra) as distinguished from RPs and miscellaneous applications of the nature under consideration. Since all such proceedings have more or less a common genesis and have followed similar trajectory, it would be eminently desirable to find a solution that benefits all. We may hasten to add here that the exercise of inherent powers conferred on this Court by Article 142, in such circumstances, is not just inevitable but also pivotal for disposal of the matters at hand, given their impact on public interest at large as well as to secure uniformity and consistency in our decisions; hence, we consider it expedient to pass such orders or directions for ensuring complete justice in the matters under consideration before us. Notwithstanding our discussion on the reference which was necessitated to answer the question of law on which there was a disagreement between the Hon'ble Judges of the Division Bench, taking an overall and holistic view of the matter and in the light of the larger public interest that is involved, in each of the RPs and miscellaneous applications that have been dealt with by this judgment (except those remanded to the High Court and those de-tagged for separate listing infra), we issue the following directions:

a) The time limit for initiation of fresh acquisition proceedings in terms of the provisions contained in section 24(2) of the 2013 Act is extended by a This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:18 year starting from 01st August, 2024 whereupon compensation to the affected landowners may be paid in accordance with law, failing which consequences, also as per law, shall follow;

b) The parties shall maintain status quo regarding possession, change of land use and creation of third-party rights till fresh acquisition proceedings, as directed above, are completed;

c) Since the landowners are not primarily dependent upon the subject lands as their source of sustenance and most of these lands were/are under use for other than agricultural purposes, we deem it appropriate to invoke our powers under Article 142 of the Constitution and dispense with the compliance of Chapters II and III of the 2013 Act whereunder it is essential to prepare a Social Impact Assessment Study Report and/or to develop alternative multi-crop irrigated agricultural land. We do so to ensure that the timeline of one year extended at (a) above to complete the acquisition process can be adhered to by the appellants and the GNCTD, which would also likely be beneficial to the expropriated landowners;

d) Similarly, compliance with sections 13, 14, 16 to 20 of the 2013 Act can be dispensed with as the subject-lands are predominantly urban/semi-urban in nature and had earlier been acquired for public purposes of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:18 paramount importance. In order to simplify the compliance of direction at

(a) above, it is further directed that every Notification issued under section 4(1) of the 1894 Act in this batch of cases, shall be treated as a Preliminary Notification within the meaning of section 11 of the 2013 Act, and shall be deemed to have been published as on 01st January, 2014;

e) The Collector shall provide hearing of objections as per section 15 of the 2013 Act without insisting for any Social Impact Assessment Report and shall, thereafter, proceed to take necessary steps as per the procedure contemplated under section 21 onwards of Chapter-IV of 2013 Act, save and except where compliance of any provision has been expressly or impliedly dispensed with;

f) The landowners may submit their objections within a period of four weeks from the date of pronouncement of this order. Such objections shall not question the legality of the acquisition process and shall be limited only to clauses (a) and (b) of section 15(1) of the 2013 Act;

g) The Collector shall publish a public notice on his website and in one English and one vernacular newspapers, within two weeks of expiry of the period of four weeks granted under direction (f) above;

h) The Collector shall, thereafter, pass an award as early as possible but not exceeding six months, regardless This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:18 of the maximum period of twelve months contemplated under section 25 of the 2013 Act. The market value of the land shall be assessed as on 01st January, 2014 and the compensation shall be awarded along with all other monetary benefits in accordance with the provisions of the 2013 Act except the claim like rehabilitation etc.;

i) The Collector shall consider all the parameters prescribed under section 28 of the 2013 Act for determining the compensation for the acquired land. Similarly, the Collector shall determine the market value of the building or assets attached with the land in accordance with section 29 and shall further award solatium in accordance with section 30 of the 2013 Act;

j) In the peculiar facts and circumstances of this case, since it is difficult to reverse the clock back, the compliance of Chapter (V) pertaining to "Rehabilitation and Resettlement Award" is hereby dispensed with; and

k) The expropriated landowners shall be entitled to seek reference for enhancement of compensation in accordance with Chapter-VIII of the 2013 Act.

4. It is clarified that the extension of one year, as granted to the Authorities for completion of acquisition in sub-para (a) reproduced above, will commence from the date of this order."

6. Insofar as, the present Petitioner is concerned, therefore, the orders dated 31st August 2016 read with 23rd October, 2024 of the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:18 Supreme Court, would be the final orders and the Petition is disposed of in terms thereof.

7. No further orders are called for.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 12, 2024/kr/ks This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 17/12/2024 at 21:38:18