

Supreme Court of India

Kathuria Public Schools And Ors vs Union Of India And Ors on 19 February, 2016

Author: A R Dave

Bench: Anil R. Dave, Shiva Kirti Singh, Adarsh Kumar Goel

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
INTERLOCUTORY APPLICATION NOS.4-7 OF 2015  
IN  
CIVIL APPEAL NO.9220 OF 2014

KATHURIA PUBLIC SCHOOLS & ORS. ...APPELLANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

J U D G M E N T

ANIL R. DAVE, J.

1. These applications have been filed in decided appeal arising out of order of the High Court of Delhi dated 27th March, 2014 in W.P. (C) No.2009 of 2014.

2. The issue in the appeal involved validity of acquisition of land and consequent handing over of possession. Notification under Section 4 of the Land Acquisition Act, 1894 ('the Act') was issued on 23rd January, 1965 after which the appellant claims to have purchased the land. Declaration under Section 6 was issued on 26th December, 1968. Award for compensation was made by the Collector on 30th March, 1981. The appellant filed a writ petition challenging the acquisition being Writ Petition (Civil) No.586 of 1981 before the Delhi High Court which was dismissed on 14th December, 1995 which order was affirmed by the Division Bench against which special leave petition was

dismissed by this Court on 1st November, 1996. Thereafter, the appellant made a representation and also filed Writ Petition (Civil) No.233 of 1997 before the Delhi High Court for direction to consider the representation for release of the land. The said writ petition was dismissed on 9th November, 2011. The review petition against the said order was dismissed on 2nd December, 2011. Special leave petition filed against the said order was dismissed on 9th December, 2011 but subject to the filing of an undertaking to deliver vacant and peaceful possession on or before April 30, 2013, status quo was directed to be maintained in respect of nature, title and possession of the land. Accordingly, the appellant filed an undertaking on 6th January, 2012. However, the appellant did not vacate the land in spite of the said undertaking which led to filing of a contempt petition before this Court being Contempt Petition (Civil) Nos.281-282 of 2014 by the Delhi Development Authority (DDA). On 1st August, 2014, this Court permitted DDA to take possession of the acquired land except the land on which school premises was situated and area abutting the school which was required as play ground. This Court appointed Shri Rakesh K. Khanna, senior advocate to supervise the functioning of the school. He was to be overall in charge of the administration. On 17th September, 2014, the contempt petitions were disposed of by accepting apology of the contemnor, namely, Shri Sunil Kathuria, for not vacating the premises in spite of the undertaking. This Court recorded his statement to the effect that possession of the land in question including the construction thereon, was deemed to have been taken over on 30th April, 2013 in terms of the undertaking dated 9th December, 2011. It may also be noted that the appellant had filed Writ Petition (Civil) No.2009 of 2014 before the Delhi High Court for a declaration that acquisition in respect of 13.3. acres of land situated in village Rangpuri @ Malikpur Kohi, Tehsil Kapashera, Mehrauli, Delhi had lapsed and for restraining the authorities from taking over physical possession thereof. The said writ petition was dismissed against which the above appeal was filed. The said appeal was disposed of vide order dated 17th September, 2014 by recording that since possession of land has already been taken over and contempt matter disposed of, the High Court may decide the writ petition of the appellants afresh.

3. It is in the above background that the present applications have been filed. I.A. No.4 seeks extension of time for running the school in spite of possession having been deemed to have been taken over by the DDA. I.A. Nos.5 and 6 have been filed by the Government of NCT, Delhi seeking direction to the Administrator appointed by the Court/DDA to hand over possession of the land and the school building so that the school can be run as a Government school. I.A. No.7 has been filed by the appellants with a prayer to take into account exclusion of 9 bighas of land in Khasra No.1877, while passing orders for handing over possession of the remaining land to the persons this Court deems fit.

4. We have heard learned counsel for the parties.

5. It is clear from the facts already noticed that the possession of the entire land stands handed over to the DDA as on 30th April, 2013. Nothing stands excluded. The school was taken over by the Administrator. Only further direction required is that the Delhi Government may take over the school from the Administrator in accordance with law on which the Administrator appointed by the Court will stand discharged.

6. I.A. Nos.4 to 6 stand disposed of accordingly. There is no merit in I.A. No.7 which will stand dismissed.

.....J.

(ANIL R. DAVE) .....J.

(SHIVA KIRTI SINGH) .....J.

(ADARSH KUMAR GOEL) NEW DELHI FEBRUARY 19, 2016.