

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 25.01.2016

W.P.(C) 1382/2014 & CM 2884/14, 21124/15, 25705/15 & 29996/15

M/S BAND BOX PRIVATE LTD

..... Petitioner

versus

GOVERNMENT OF NCT OF DELHI AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Sumant Bhardwaj
For Respondent No.1/GNCTD : Mr Arjun Mitra for R-1
For the Respondent L&B/LAC : Mr Siddharth Panda
For the Respondent DDA : Mr Dhanesh Relan

CORAM:

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The learned counsel for the petitioner states that this matter is covered by the decision of this Court in the case of *Girish Chhabra v. Lt. Governor of Delhi and Ors.*: **W.P.(C) 2759/2011** decided on 12.09.2014.

2. It is the case of the petitioner that although the possession of the subject land has been taken, the Award under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') was made more than five

years prior to the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act'), which came into effect on 01.01.2014. The Award No.1820/1963-64 was made as far back as on 21.04.1965. He states that the compensation has still not been paid to the petitioner despite the passage of 50 years since the date of the Award. He also states that the entire land has not been put to use by the respondents and only a part of the land has been utilized.

3. It was, therefore, contended by the learned counsel for the petitioner that the requirements of Section 24(2) of the 2013 Act have been fulfilled and the petitioner is entitled to a declaration that the subject acquisition under the 1894 Act has lapsed. In the present case, the land in question is situated in village Bahapur, Delhi in khasra No. 224 (6-19) measuring 6 bighas and 19 biswas in all.

4. It is the case of the respondents that physical possession of the entire 6 bighas and 19 biswas of land was taken on 01.09.2000. We may note at this juncture that even this was done after 35 years of the passing of the Award. Insofar as the compensation is concerned, it is submitted by the learned counsel for the respondents that the same was deposited in the Court of the

learned Additional District Judge on 19.05.2014. It is stated in the affidavit filed on behalf of the DDA that out of 6 bighas and 19 biswas of land, which was acquired, only 1 bigha and 16 biswas of land have been put to use. The balance 5 bighas and 3 biswas of land are lying vacant. According to the learned counsel for the respondents, the acquisition is complete and, therefore, no interference is called for by this Court.

5. With regard to the issue of compensation, it is clear that the same was not offered to the petitioner and it has been deposited in the Court of the Additional District Judge on 19.05.2014 which is after the commencement of the 2013 Act which came into effect on 01.01.2014. In other words, as on 01.01.2014, no compensation had either been offered to the petitioner or deposited in Court. The date of lapsing of the acquisition would be 01.01.2014. On that date, clearly, there was no deposit of compensation before the learned Additional District Judge. Therefore, it is clear that compensation has not been paid to the petitioner. Thus, although physical possession of the subject land had been taken, compensation had not been paid to the petitioner and the Award was also more than five years prior to the commencement of the 2013 Act.

6. Consequently, the decision of this Court in *Girish Chhabra (supra)* would apply on all fours and it would have to be declared that the subject acquisition has lapsed.

7. The writ petition is allowed by declaring that the acquisition in respect of the subject land has lapsed.

8. There is, however, an issue with regard to one bigha and 16 biswas of land which has already been utilized by the respondents. Insofar as the land to that extent is concerned, although the acquisition has lapsed, the respondents would have two options available to them. The first option would be to retain possession of 1 bigha and 16 biswas of land and also to initiate fresh acquisition proceedings in respect thereof within a period of six weeks under the provisions of the 2013 Act. The other option would be to offer compensation to the petitioner for the said 1 bigha and 16 biswas of land in terms of the 2013 Act and thereby legitimately retain possession of the said 1 bigha and 16 biswas of land. If second option is taken, the learned counsel for the petitioner has stated, on instructions, that he would be agreeable to the same. The second option would also have to be exercised within the said period of six weeks.

9. The writ petition is disposed of in the above terms. The parties are left to bear their own costs.

Dasti.

BADAR DURREZ AHMED, J

**JANUARY 25, 2016
SR**

SANJEEV SACHDEVA, J

