

**(2006) 09 DEL CK 0029**

**Delhi High Court**

**Case No:** Writ Petition (C) No. 59 of 1992

Preetam Kaur Behl

APPELLANT

Vs

ADM(LA)

RESPONDENT

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**Date of Decision:** Sept. 18, 2006

**Acts Referred:**

- Delhi Lands (Restrictions on Transfer) Act, 1972 - Section 2, 4, 5, 8
- Land Acquisition Act, 1894 - Section 4, 48, 6
- Registration Act, 1908 - Section 17(1), 4

**Citation:** (2006) 91 DRJ 173

**Hon'ble Judges:** Mukul Mudgal, J; Dr. S. Muralidhar, J

**Bench:** Division Bench

**Advocate:** N.S. Vashisht, for the Appellant; Sanjay Poddar and, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

S. Muralidhar, J.

This writ petition was filed in November, 1991 by the petitioner seeking the following reliefs:

(a) A writ of mandamus, or a writ, order of direction in the nature thereof directing respondent No. 3 to register the sale-deeds in respect of the land comprised in Mustatil No. 11, Killa No. 4/2 Min (1-8), Mustatil No. 11, Killa No. 3/2 Min.(0-12) totally admeasuring 2 bighas and 15 biswas situated within the Revenue Estate of Village Devli, Tehsil Mehrauli, New Delhi without insisting for any permission or production of any "No Objection Certificate" as allegedly required to be obtained from Respondents 1 and 2 and further declare that no permission/No Objection Certificate is required under the provisions of Delhi Lands (Restrictions on Transfer) Act, 1972, in the present case.

2. The petitioner's case is that in respect of the aforementioned lands two sale deeds were executed in her favour by the two sellers sometime in 1991. Photocopies of the two incompletely dated sale deeds have been annexed as Annexure P-I (collectively) to the writ petition. The petitioner on 14.1.1991 went to the Office of Sub-Registrar of Assurances-III, Asaf Ali Road, New Delhi (Respondent No. 3 herein) to enquire about the formalities for getting the sale deeds registered and was informed that a "No Objection Certificate" (NOG) had to be obtained under the provisions of the Delhi Lands (Restriction on Transfer) Act, 1972 (DLRT Act) from the office of the Additional District Judge (Land Acquisition), Respondent No. 1 herein.

3. The petitioner claims that at this stage the lands in question were "free from all sorts of encumbrances including any notification of acquisition under Sections 4 and 6 of the Land Acquisition Act, 1894 ("LA Act") or any other law governing acquisition of lands" since the land acquisition proceedings initiated by the Union of India in respect of the lands in question was quashed by this Court by a judgment dated 18.11.1988 in W.P. (C) No. 1639 of 1985 [ [B.R. Gupta Vs. Union of India and Others](#), ]. When the petitioner and the seller went to the office of Respondent No. 3 on 25.4.1991 and submitted a declaration u/s 5 of the DLRT Act, the Respondent No. 3 refused to accept the application for grant of NOG stating that no such application for NOC could be accepted where the consideration is less than Rs. 4.65 lakhs per acre. Contending that this ground for refusal to issuance of the NOC was illegal and arbitrary, the petitioner filed this writ petition with the prayers as extracted hereinabove.

4. Rule DB was issued in this writ petition on 10.2.1992 and was directed to be heard along with WP(C) 3611 of 1991 (Jit Ram v. Union of India).

5. Sections 2 and 4 of the DLRT Act which place a restriction on transfer by sale or otherwise any land which is either being or proposed to be acquired under the Land Acquisition Act, 1894 ("LA Act") read as under:

Section 2: No person shall purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union Territory of Delhi, which has been acquired by the Central Govt. under the Land Acquisition Act, 1894 or under any other law providing for acquisition of land for a public purpose.

Section 4: Regulation on transfer of land in relation to which acquisition proceedings have been initiated: No person shall except with the previous permission in writing of the competent authority transfer or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union Territory of Delhi, which is proposed to be acquired in connection with the scheme and in relation to which a declaration to the effect that such land or part thereof is needed for a public purpose having been made by the Central Govt u/s 6 of the Land Acquisition Act, 1894, the Central Govt. has not withdrawn from the acquisition u/s 48 of that Act.

6. Section 5 of the DLRT Act requires the person desiring to transfer any land referred to in the Section 4 to make an application to the competent authority. The grounds on which such permission can be refused is set out in that provision. In its decision in [Meera Sahni and Another Vs. Lt. Governor of Delhi and Others](#), this Court categorically ruled that the lands that are the subject matter of the land acquisition proceedings cannot be transferred without the permission of the competent authority u/s 5 of the Act.

7. Section 8 of the DLRT Act which imposes a restriction on registration of any document purporting to be sale deed in respect of the lands that are the subject matter of acquisition under the LA Act reads as under:

Section 8 Restriction on registration of transfer of land: "Notwithstanding anything contained in other law for the time being in force, where document required to be registered under the provisions of Clauses (a) to (e) of Sub-section (1) of Section 17 of the Registration Act, 1908 (16 of 1908) purports to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof referred to in Section 4, no registering office, appointed under that Act shall register any such document unless the transfer produces before such registering officer a permission in writing of the competent authority for such transfer.

8. The developments subsequent to the decision of this Court in Balak Ram Gupta require to be noticed next, Although the decision in Balak Ram Gupta was itself not appealed against, it has been confined to the 73 petitions in which the said judgment came to be delivered. In [Delhi Administration Vs. Gurdip Singh Uban and Others etc.](#), and [Delhi Administration Vs. Gurdip Singh Uban and Others](#), the Hon'ble Supreme Court clarified that the quashing of the land acquisition proceedings in respect of the lands in question in the 73 petitions in Balak Ram Gupta would not affect the validity of the acquisition proceedings in respect of the other lands covered by the same set of notifications.

9. Following this, a large number of petitions which had been filed in this Court seeking the application of the ratio in Balak Ram Gupta came to be decided in terms of the decisions in Gurdeep Singh Uban (I) and (II). A whole batch of such petitions including W.P. (C) No. 3611 of 1991 (Jit Ram v. Union of India) (with which this petition was to be heard) were dismissed on 24.5.2006 by the judgment of a Division Bench of this Court in Santosh Kumar v. Union of India (W.P. (C) No. 809/92).

10. Counsel for the respondents contends that in view of the subsequent developments noticed hereinabove, the relief claimed in this petition cannot be granted. On the other hand, the learned Counsel for the petitioner submits that notwithstanding any subsequent validation of the acquisition proceedings in respect of the lands in question, as long as those proceedings stood quashed on the date that the petitioner presented the sale deed for registration, the issuance of an NOC and the consequent registration of the sale deed could not have been refused in

terms of the DLRT Act.

11. We are unable to accept this submission of the learned Counsel for the petitioner. The petitioner was not among the petitioners of the 73 petitions to whom alone the benefit of the judgment in Balak Ram Gupta enured. In view of the subsequent clarification by the Hon"ble Supreme Court in Gurdeep Singh Uban land II, the land acquisition proceedings in respect of the lands in question in the present petition cannot be said to have been quashed. Their validation would revive from the date they commenced. Therefore, on the date the sale deeds were presented for registration, the bar under S. 2 DLRT Act stood attracted and no NOC could have been granted, much less the sale deed registered. The learned Counsel for the respondent is right in his submission that the subsequent developments have rendered the reliefs sought for in this petition incapable of being granted.

12. For all the above reasons, we find no merit in the writ petition and it is, accordingly, dismissed.