

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 914/2022

With

Caveat application No. 20/2022

IN THE MATTER OF:

Kamlesh Jonwal

..... Applicant

Versus

Uday Punj & Anr.

..... Respondent

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SDM Vasant Vihar



631

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
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IN THE MATTER OF:

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..... Respondent

**Submission on the behalf of Respondent No. 4 District Magistrate, New
Delhi District**

It is most respectfully showeth:

1. That this Hon'ble Tribunal vide order dated 09/02/2024 has issued direction regarding the verification of relevant aspects and factual position of the land in question.
2. That it is submitted that the Hon'ble Tribunal constituted a joint committee comprising of the officers duly authorized by vice chairman, DDA, DM (New Delhi) and commissioner, Municipal corporation of Delhi to demarcate the land of Kaveri Apartment and land of respondent no.1 namely Sh. Uday Punj question and submit report specifically mentioning as whether any part of Kaveri Apartment, Green Belt connecting to the end gate of said apartment and public facilities drinking water/gas pipelines/sewage etc. fall into the land belonging to respondent no.1.
3. That in compliance with the direction of this Hon'ble Tribunal a demarcation map was prepared by DDA which was duly signed by revenue official and handed over to the DDA on 12.12.2023 which was submitted on 13.12.2023 to this Tribunal by the DDA. Later, on the direction of this Hon'ble Tribunal the demarcation report was also submitted by the DDA to this Tribunal on



08.01.2024. That the Revenue Department affirm the same and has no objection on the demarcation (TSS) map. The copy of affidavit dated 13.12.2023 and 08.01.2024 filed by DDA is enclosed as **Annexure-“I”**.

4. That it is further submitted that the father of the respondent no. 1 namely Sh. Satya Narain Prakash Punj and his deceased Brother Mr. V.P. Punj filed the WPC 1802/1980 before Hon'ble Court of Delhi for quashing the acquisition proceedings. The above said proceeding was clubbed with other acquisition proceedings. The leading case was adopted in the club matter in name of Roshanara Begam vs UoI, &Ors bearing writ petition no. 701/1981. In the above said matter the Hon'ble Court declined to quash the acquisition proceeding by order dated 14.12.1995 in the leading case.
5. That it is further mentioned here that the possession of the subject land i.e. Khasra no. 480/396/87(3-12), 479/369/87(3-12), 86(9-12), 88(9-17) and 67(4-01) was rightfully taken by the DDA on 21.04.2007. This fact was also considered by the Hon'ble High Court in the matter of WP(C)2972/2007, filed by Satya Narain Prakash Punj. The Hon'ble Court dismissed the above noted petition on 25.04.2007 on the ground that the petitioner admitted through photographs that wide scale demolition had been carried out on 21.04.2007. The Court also observed that the possession has been taken on 24.01.2007 itself (the date 24.01.2007 is wrongly mentioned in order it is actually 21.04.2007). **(Copy of order dated 25.04.2007 is Annexure as Annexure-II)**. The proceedings dated 21.04.2007 regarding handing over and taken over of possession are also enclosed as **Annexure-III**.
6. That the Respondent no. 1 submitted through written submission in this Hon'ble Tribunal that the land acquisition proceeding initiated vide award no.90/1980-81 dated 22/29.12.1980 lapsed as held vide judgment dated 23.02.2015 passed by the Hon'ble Delhi High Court in W.P(C) No. 6390/2014 which was upheld by the Hon'ble Supreme Court of India vide judgment dated 28.04.2016 and Review Petition were also dismissed by



Hon'ble Supreme Court of India vide order dated 31.03.2022. That Respondent No.1 has also stated that the Land Acquisition Collector and Land & Building Department has admitted in the Counter affidavit filed in W.P(C) No. 6390/2014 before Hon'ble High Court of Delhi, that the possession of the land was never taken. That the Respondent No.1 had admitted in W.P.(C) No.6390/2014 (Copy of the said Writ Petition is enclosed as **Annexure-IV**). That the Hon'ble Court of Delhi had declined quashing the acquisition proceedings in W.P(C) No. 1802/1980. Further, Respondent No.1 had concealed the fact that the possession of the subject land had already been taken by DDA in the year 2007 as recorded by the Hon'ble High Court in its judgment dated 25.04.2007 in W.P(C) No. 2972/2007.

7. That it is submitted that the possession of the land was taken on 21.04.2007 as mentioned in the para 5 above. But a factually incorrect affidavit was filed by the then ADM (New Delhi) on the report of the Patwari and that led to passing of the aforesaid orders dated 23.02.2015.

8. That it is submitted that the Apex Court of India in its subsequent judgement the case of **"Indore Development Authority Vs Manoharlal & Ors"** (SLP(c)no. 9036-9038 of 2016, decided on 06.03.2020) held as under:

The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceedings for land acquisition pending with concerned authority as on 01.01.2014".

"Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e. 01.01.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode



of taking possession to reopen proceeding or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”

9. Hence, it is submitted that the Hon'ble Tribunal may render justice in view of the judgement dated 25.04.2007 of Hon'ble High Court in W.P(C) No. 2972/2007 and the facts recorded therein and also judgement of the Apex Court in the case of “**Indore Development Authority Vs Manoharlal & Ors**” (SLP(c)no. 9036-9038 of 2016”. Further, appropriate action is being taken against the officers involved in filing of incorrect affidavit in W.P(C) No. 6390/2014.

Prayed accordingly.



SDM Vasant Vihar



BEFORE THE NATIONAL GREEN TRIBUNAL AT
DELHI PRINCIPAL BENCH
ORIGINAL APPLICATION NO. 914/2022

IN THE MATTER OF:

KAMLESH JONWAL

...PETITIONER

VERSUS

UDAY PUNJ & ORS.

...RESPONDENTS

N.D.O.H.: 13-12-2023

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Dated: 13-12-2023
New Delhi

FILED BY:

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BEFORE THE NATIONAL GREEN TRIBUNAL AT
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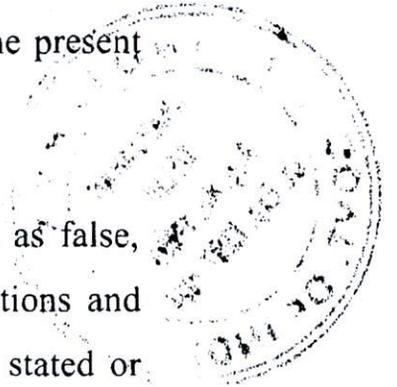
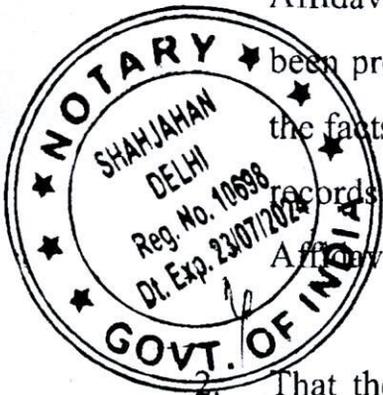
STATUS REPORT CUM AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 2/DDA

I, Bhargava S/O Mr. D. S. S. Aged about ___ years, working
as DD, LM, NDZ, office at Delhi Development Authority, INA,
Vikas Sadan, New Delhi, do hereby solemnly affirm and state on
oath as under:

1. That I am duly authorised and competent to affirm the present Affidavit on behalf of the Respondent No 2 /DDA, which has been prepared under my instructions. I am fully conversant with the facts and circumstances of the present case on the basis of the records maintained in the office to enable me to file the present Affidavit on behalf of the Respondent No 2/ DDA.

2. That the Respondent No 2/ DDA disputes and denies as false, frivolous and vexatious all claims, contentions, allegations and averments in the present petition contrary to anything stated or submitted in this Affidavit.

3. That in compliance of Order dated 20-11-2023 passed by the Hon'ble Tribunal in this matter, a joint site survey of the subject area was carried out on 21-11-2023 along with the concerned Revenue Staff of SDM (Vasant Vihar), AE/SPD-1 (DDA) and



Sh. Birender (Habib, Surveyor). After survey of the land, which is subject matter of the case, a TSS plan has been prepared and provided by the Surveyor.

4. That as per TSS plan for the area of land which is the subject matter of case:

Site 01 (Area under Green): This site is adjacent to service road connecting Exit gate (Kaveri Apartment) and Vasant Kunj Road and in the right while going towards Exit gate (Kaveri Apartment). Area measuring 384.88 sqm in Khasra No. 93 and 989.37 sq. in Khasra No. 87 is under Green Belt. Photos of this site is also enclosed.

Site 02 (Area under Green): This site is adjacent to service road connecting Exit gate (Kaveri Apartment) and Vasant Kunj road and in the left while going towards Exit gate (Kaveri Apartment). Area measuring 1159.648 sqm in Khasra No. 87 is under Green belt. Photos of this site is also enclosed.

Site 03 (Area under Pump House, Kaveri apartment): Area measuring 587.134 sqm is under pump house in Khasra No. 87 min, 88 min & 93 min. Photos of this site is also enclosed.

Site 04 (Area under Barat Ghar, Kaveri apartment): Area measuring 1601.024 sqm is under Barat Ghar in Khasra No. 88 min, 89 min and 93 min. Photos of this site is also enclosed.



Site 05 (Area under DDA market): Area measuring 1168.020 sqm is under DDA market in Khasra no. 88 min & 89 min. Photos of this site is also enclosed.

Site 06 (Area proposed for Police Station): Area measuring 12326.05 sqm in Khasra no. 86 min, 88 min & 67 min is lying vacant at the site and is partly under green. Photos of this site is also enclosed.

The TSS plan duly signed and verified by the Revenue staff of SDM (Vasant Vihar) with respect to the reference point shown by them, Revenue Staff of DDA, AE (DDA) and Surveyor is enclosed.



That as per the land records of the DDA, Khasra No. 480/396/87(3-12), 479/396/87(3-12), 86(9-12), 88(9-17), 67(12-03) of Village Maadpur was acquired vide Award No. 90/80-81 and physical possession of area 08 bigha 02 biswa of Kh.no 67, 398/329/93/2 min(08-09) and 330/93(4-17) was handed over to DDA by LAC/L&B Dept. GNCTD on 29-12-1980 and Khasra no. 480/396/87(3-12), 479/396/87(3-12), 86(9-12), 88(9-17) and 67 min(04-01) was handed over to DDA by LAC/L&B Dept. GNCTD on 21-04-2007. An amount of Rs 17,37,385/- and Rs 10,000,00/- was paid by DDA to L&B Dept. GNCTD against the said award vide cheque no. 908137 & 906691 dated 09-01-1981.

6. That the respondents have violated the order dated 13.12.2023 of the Hon'ble Tribunal by cutting down the trees in the area in

question. Photographs of the cutting down of trees in question are attached herewith as Annexure R-1.

7. That the present short affidavit is submitted accordingly.

Bohus
12/14/2023
DEPONENT

VERIFICATION:-

Verified at New Delhi on this 3 DEC 2023 day of December, 2023 that the contents of the above Affidavit are true and correct to the best of my knowledge and based on the official records of the Respondent. No part of it is false and nothing material has been

concealed therefrom.

13 DEC 2023

Identified the deponent who has signed/put in my presence.



Bohus
12/14/2023
DEPONENT

I HEREBY CERTIFY THAT THE DEPONENT
has been read & explained to me and
he has solemnly affirmed before me at Delhi
that the contents of the affidavit are
true and correct to this & knowledge

Karthik
Cap

14

संयुक्त सर्वेक्षण रिपोर्ट ग्राम - मसूदपुर

5 (10)

In the matter of Kamlesh Jonwal v/s Uday Punj & Anr.
OA No. 914/2022 Before Hon'ble NGT.

आज दिनांक 21.11.2023 Hon'ble Tribunal के आदेशानुसार संयुक्त सर्वेक्षण के लिये मौके पर पहुंचे। मौके पर Revenue Dept. GNCTD से श्री अतुल भारतीय (NT/V.V.), श्री योगेश कुमार (पटवारी/V.V) व डी.डी.ए विभाग से श्री ओम प्रकाश (N.T), श्री रवि कुमार मीना (पटवारी), श्री मनोज (पटवारी), श्री संजय (AE/SPD-1) मौजूद रहे। Habib Surveyor की तरफ से श्री विरेन्द्र यादव मध्य Survey team टाजिर हुए।

माननीय SDM, Vasant Vidan श्री विनय कुमार जिनका Land in Question का निरीक्षण किया गया।

ग्राम सभा भूमि सर्वेक्षण साल 2023 के Reference Point ग्राम - रजौकरी, रंगपुरी व धिहोरनी के अनुसार सर्वेक्षण करना उचित समझा गया क्योंकि ग्राम मसूदपुर में कोई ठीक-ठीक Reference Point मौजूद नहीं है। तथा सर्वे Team द्वारा मौके का सर्वे किया गया (Topography सर्वे)।

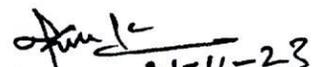
SDM Revenue Staff द्वारा Field Book की कॉपी डी.डी.ए को दी गयी। मौके पर कोई मजामत पेश नहीं आयी।


21/11/23

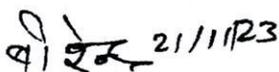
श्री अतुल भारतीय
NT, Vasant Vidan


21/11/23

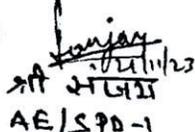
श्री योगेश पटवारी
पटवारी, Vasant Vidan


21-11-23

श्री ओम प्रकाश
NT, DDA


21/11/23

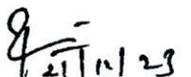
श्री विरेन्द्र यादव
Habib Surveyor


21/11/23

श्री संजय
AE/SPD-1


21.11.23

श्री मनोज
पटवारी, DDA


21/11/23

श्री रवि कुमार मीना
पटवारी, DDA

641
189

6 (11)

Delhi Development Authority
Office of the Dy. Director (LM) NDZ
A-Block, 3rd Floor, Vikas Sadan
INA, New Delhi-110023

File No NGT/Hort.(44843)23/Legal /205

Dt. 30/11/23

To

SDM Vasant Vihar,
Palika Bhawan, 6th Floor,
Sector-13, R.K. Puram, New Delhi.

Sub: Demarcation of land falling Khasra no 480/396/87(3-12), 479/396/97(3-12), 88(9-17) and 67(4-01) measuring 30 bighas 14 biswas village Masoodpur, New Delhi.

Ref: Original Application no 914/2022 titled Kamlesh Jonwal Vs Uday Punj & Anr. pending before the National Green Tribunal Principal Bench, New Delhi.

In view of above referred NGT Matter, the Hon'ble tribunal vide order dt 12.01.2023 directed to get the land in question demarcated. In compliance of Hon'ble Tribunal a joint survey was conducted on 21.11.2023 in which revenue staff from SDM, Vasant Vihar, GNCTD and DDA Staff along with the surveyor were present on the site.

The surveyor provided TSS drawing after completion of the survey of the land in question. There is some land which needs to be surveyed again and which is not shown in TSS drawing.

Hence, a re-survey needs to be carried out and a demarcated plan of the land in question, duly verified by revenue officers of GNCTD and DDA, has to be placed before the Hon'ble Tribunal.

It is, therefore, requested to direct the concerned revenue officer to remain present on 04.12.2023 at 10:30 A.M. at Kaveri Apartment gate no 2 D-6, Vasant Kunj, New Delhi.

(
Dy. Director/LM(NDZ)

Copy to:

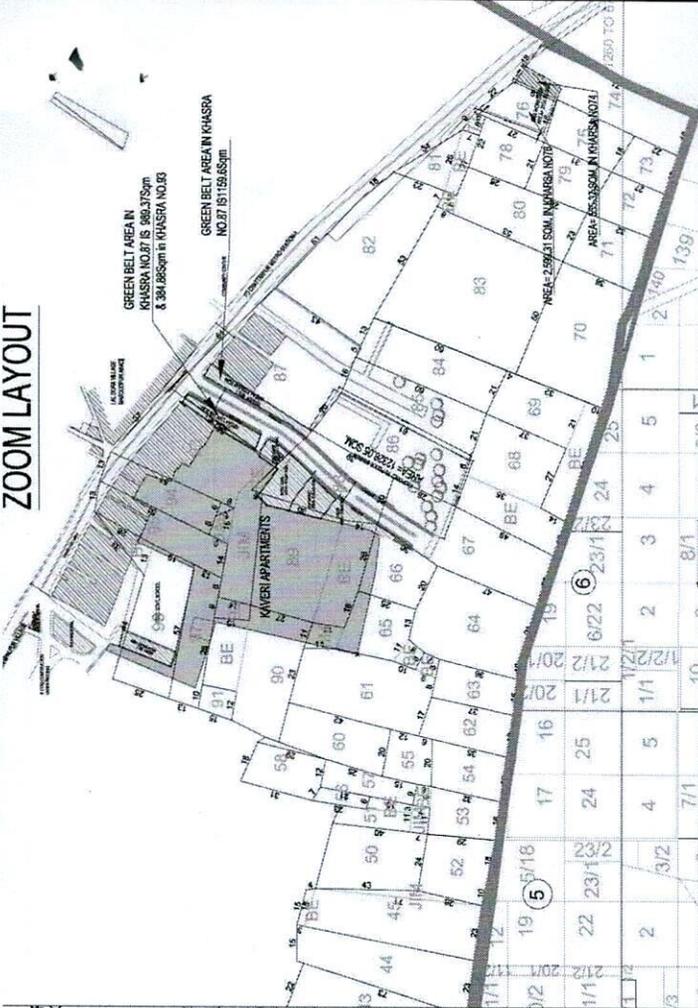
1. SHO, Police Station, Vasant Kunj, South, New Delhi with the request to provide Police Assistance to DDA Staff & Revenue Staff GNCTD on 04.12.2022 at 10.30 A.M. on the survey site.

2. Ex, Engineer (SPD)-1, DDA, DDA Office Complex, Nelson Mandel Marg, Vasant Kunj, New Delhi with the request to direct the concerned officer to remain present on the site on scheduled date & time.

✓ 3. Habib Surveyor for survey of the land in question.

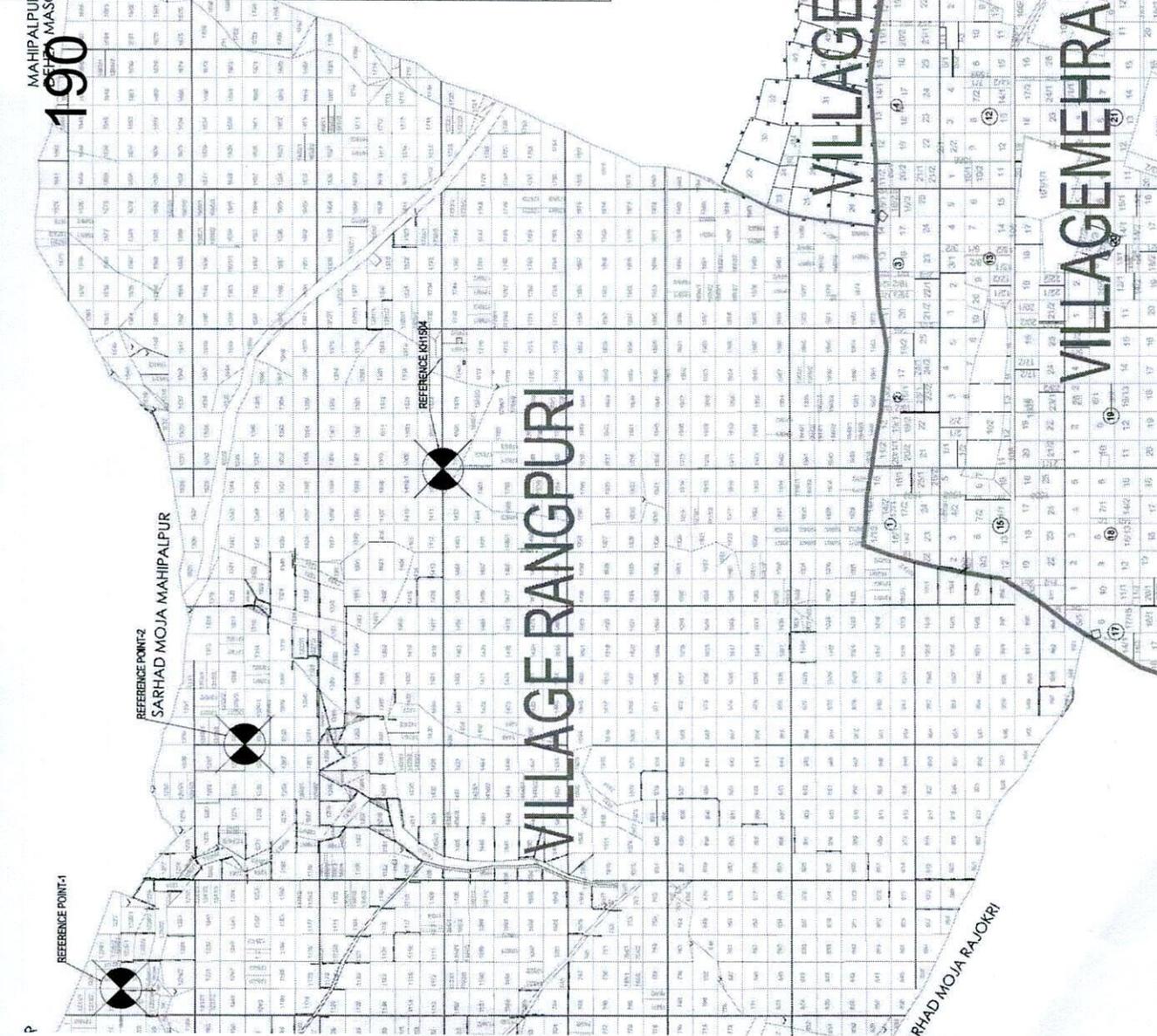
(
Dy. Director/LM(NDZ)

ZOOM LAYOUT



642

12



TITLE:-
TOTAL STATION SURVEY WORK AT VILLAGE MASOODPUR

SURVEYOR
HABIB SURVEY & DESIGN PVT. LTD.
H-46, UDAKOTE, SHAKTI, Greater Noida-201308

CLIENT
DELHI DEVELOPMENT AUTHORITY
SPD-1 DELHI

Legend :-

NAME	DESCRIPTION	NAME	DESCRIPTION
REFERENCE POINT		KHASRA LINE	
WATER ROAD		LAMP POST	
WIRE WELL		LEVELS GROUND	
BOUNDARY WALL		MANHOLE	
WELLING/ ABADI		KHASRA LINE	

IN THE NATIONAL GREEN TRIBUNAL AT NEW DELHI
O.A. NO. 914 OF 2022

IN THE MATTER OF:-

KAMLESH JONWAL ... PETITIONER
UDAYPUNJ AND ANR. .. RESPONDENTS
VERSUS

N.D.O.H.: 10-01-2024

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NEW DELHI
DATED: 08-01-2024

RESPONDENT/DDA
TRHOUGH


KRITIKA GUPTA | LATIKA MALHOTRA
Counsel for Respondent/DDA
Chamber No. 155, Lawyers' Chamber Block I,
High Court of Delhi, Sher Shah Suri Marg, Delhi
+91-8826331177 | kritika0504@gmail.com

IN THE NATIONAL GREEN TRIBUNAL AT NEW DELHI
O.A. NO. 914 OF 2022

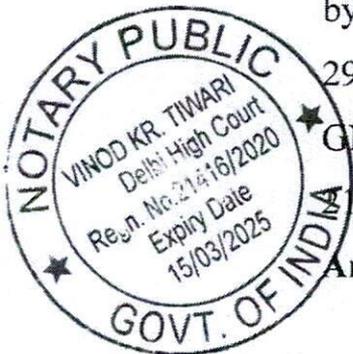
IN THE MATTER OF:-

KAMLESH JONWAL ... PETITIONER
VERSUS
UDAYPUNJ AND ANR. .. RESPONDENTS

STATUS REPORT ON BEHALF OF RESPONDENT NO. 2/DDA

I, Banarsi Das, S/o Radhe Mohan
aged about 59 years, presently working as
Dy. Dir (Lm), do hereby solemnly affirm as under:

1. That I am duly authorised and competent to affirm the present Affidavit on behalf of the Respondent/DDA on the basis of the records maintained by the Respondent/DDA and available with the Respondent/DDA. Vide order dated 23-12-2023, this Hon'ble Tribunal was pleased to direct the Respondent No. 2/ DDA to file specific response to paragraph 13 of the said order.
2. The Respondent No. 2/DDA respectfully places the following submissions for the kind consideration of this Hon'ble Tribunal:
 - a. That the land, on which the Barat Ghar, Pump House, Road and Green belt is developed, was taken over physically by the Respondent No. 2/ DDA on 21.04.2007 and 29.12.1980 from the LAC/Land & Building Department, GNCTD. True Copy of possession proceedings dated 21.04.2007 and 29.12.1980 are enclosed herewith as Annexure R1 Colly.



b. That the Barat Ghar, the Pump House, Road and the Green belt has been developed by the Respondent No. 2/ DDA after approval of *Facilities Plan of Kaveri Apartment* by the **HUPW-COORDINATION (DDA) in its 284th Screening Committee vide Item no.148 in the year 2009**. True Copy of Facilities Plan of Kaveri Apartment is enclosed herewith is **Annexure R2**.

c. **That as per said Facilities Plan of Kaveri Apartment:**

A) total area measuring 3430 sqm was approved for facilities of the Kaveri Apartments, whose further approved area utilization is as under:

i) total area measuring 1100 sqm was approved for C.S.C (Commercial Shop Centre) and is currently existing as DDA market at site.

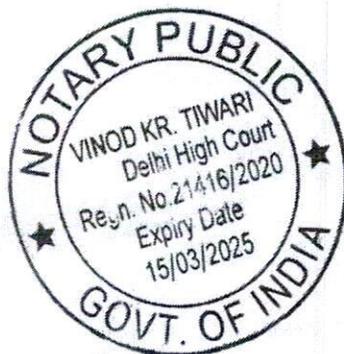
ii) total area measuring 1700 sqm was approved for Community Hall and is currently existing as Barat Ghar at the site.

iii) total area measuring 630 sqm was approved for Pump House & UGR and is currently existing as Pump House.

B) total area measuring 3665 sqm was under the **Green cover**.

C) total area measuring 9360 sqm was under the **Road**.

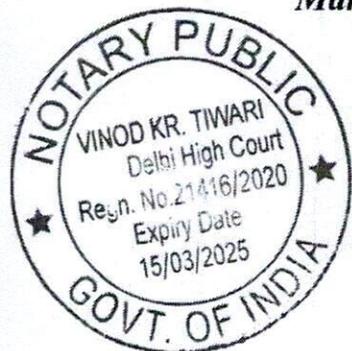
3. That it is specifically denied that physical possession of the subjected land i.e., Khasra nos. 480/396/87 (3-12), 479/396/87 (3-12), 86 (9-12), 88 (9-17) and 67 (4-01) had not been taken, **as stated by concerned Land Acquisition Collection in its counter affidavit filed before the Hon'ble High Court of Delhi**



in civil writ petition 6390/2014. In this regard, copy of possession proceedings dated 21.04.2007 of handing-over/taking-over of Khasra nos. 480/396/87 (3-12), 479/396/87 (3-12), 86 (9-12), 88 (9-17) and 67 (4-01) is relied upon.

4. That the Hon'ble High Court of Delhi vide its Judgment dated 23.02.2015 in WP (C) 6390/2014 passed an order that *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*. The DDA filed a SLP (C) No. 32635/2015 in Civil Appeal No. 4590/2016 against the Judgment dated 23.02.2015 of the Hon'ble High Court of Delhi and the same was dismissed vide order dated 28.04.2016.
5. That the Respondent No. 2/DDA then filed Review petition (C) Diary. no. 27968/2021 in Civil Appeal No. 4590/2016 and the same was dismissed vide order dated 31.03.2022.
6. That after the Award was made by the Collector under Section 11 of Land Acquisition Act 1894 in 1980. Compensation amount of Rs 17,37,385/- and Rs 10,000,00/- was paid by the DDA to Land & Building Department, GNCTD against the said Award vide cheque numbers 908137 and 906691 respectively dated 09-01-1981. As per Judgement dated 06.03.2020 of Hon'ble Supreme Court of India in *Indore Development Authority V/s Manoharlal & Ors., SLP (c) No. 9036-9038 of 2016*:

The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for



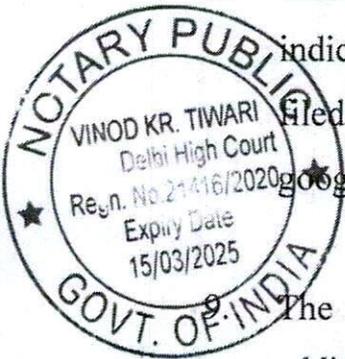
land acquisition pending with concerned authority as on 1.1.2014.

Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

7. Therefore, in view of the dictat of the Judgment dated 06.03.2020 of Hon'ble Supreme Court of India in **Indore Development Authority V/s Manoharlal & Ors. , SLP (c) No. 9036-9038 of 2016**, there seems to be no lapse of acquisition proceedings initiated under the 1894 Act.

8. That the videography of green-belt, site 01, 02 and 06 as indicated in the the Status report cum affidavit on behalf of DDA filed on 13.12.2023, was carried out and is enclosed herewith as google drive links (**Annexure R3**).

The Respondent/DDA craves leave of this Tribunal to file additional affidavit in case the need so arises.



Identified
to
I identified the Deponent who has signed/initialled the Deposition before me

08 JAN 2024

[Signature]

DEPONENT
उप निदेशक (मुख्य प्रबंधक) / Dy Director (LM)
नई दिल्ली ज़ोन / New Delhi District
डी डी ए., ए 303, विद्याग सदन / DDA, A-303, Vikas Sadan
दिल्ली-110023 / INA, New Delhi-110023

VERIFICATION: Verified at New Delhi on this the _____ day of _____ 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS STATED PERFECTLY TO UNDERSTAND AFFIRMED & DEPOSED BEFORE ME A NEW DELHI

08 JAN 2024
IDENTIFY THE EXECUTANT DEPONENT WHO HAS SIGNED IN MY PRESENCE
VINOD KUMAR TIWARI, Adv. Reg. No. 21416/2020
NOTARY PUBLIC (NEW DELHI)

[Signature]
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DEPONENT
उप निदेशक (मुख्य प्रबंधक) / Dy Director (LM)
नई दिल्ली ज़ोन / New Delhi District
डी डी ए., ए 303, विद्याग सदन / DDA, A-303, Vikas Sadan
दिल्ली-110023 / INA, New Delhi-110023

Award No-90/80-648/Agri दिनांक 21/4/2007.
Masood pur delhi मसूदपुरा दिनांक-21/4/2007

आकटा पल खंला SW/96/06/Consultant/48

दिनांक दि 13/4/2007 एवं आदेशानुसार एच/ (31)

खलण्डर सि (द/प) का मसूदपुरा पट्टिया

मौके पर मसूदपुरा खलण्डर की तरफ से श्री धर्मवीर पटवारी, मसूदपुरा L&B को तरफ से इश्वर दाठ.

कासूतगो, मसूदपुरा ODA की तरफ से श्री दया शम, कासूतगो, श्री अनज पाल, पटवारी डे मो लिखत दला

जे व सी पी प्रती सहित दाजिर हैं। मसूदपुरा पुकिठ जिला द/प की तरफ से श्री रवीन्द्र गुवाल ACP

राएव मसूदपुरा खलण्डर को राएव श्री सुरेश दाठ मसूदपुरा मोके पर दाजिर कोष।

मसूदपुरा के अवार्ड नं 90/80-81 द्वारा कार्यालयीत

खलण्डर नं 67 मिन (4-1) 388/77 (0-5) 88

(9-12) 479/396/87 (3-12) 480/396/87

(3-12) 392/340/82 (9-5) 88 (9-17)

400/94 मिन (0-19) पर वन समीपत को गिरा

कर कबला वाकई लिया गया। कोर कबला

वाकई, उनी समूह L&B के नुमाने श्री इश्वर दाठ,

कासूतगो के हवाल किया गया। कोर कबला उनी का

दो, इश्वर दाठ कासूतगो ने मसूदपुरा ODA के नुमाने

श्री दया शम कासूतगो के हवाल किया।

मौके पर साकल कबला कारवाही कोर फरेवानी

पेश करे करे। PTO

19

कार्यवाही प्रक. सं.

310

प्रथम पृष्ठ का शेष:-

इस प्रकार कठोर कार्यवाही मुकुन्द
 कार्यवाही की एक प्रति हस्ता पर्यायी को रिकॉर्ड माफ
 देव भज की जायगी।
 21/4/07 (शिवशंकर) (धर्मवीर) (राजिव कुमाल)
 काश्मीर (L&B) पर्यायी (PA) / SW NT (LA) / SW
 21/4/07 (दयाराम) (अनम माफ) (अप 21/4/07)
 काश्मीर (DDA) पर्यायी (DDA)

650

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 2972/2007

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SATYA NARAIN PRAKASH PUNJ Petitioner
Through Dr. A.M. Singhvi, Sr. Advocate
with Mr. Amitabh Chaturvedi
& Mr. Nikhil Srivastava,
Advocates

versus

UOI & ORS. Respondent
Through Ms. Monika Garg, Advocate
for UOI
Mr. Gaurav Sarin with Ms.
Jhum Jhum Sarkar, Advocates
for DDA
Mr. Sanjay Poddar, Advocate
for LAC

CORAM:
HON'BLE MR. JUSTICE VIKRAMAJIT SEN
HON'BLE MR. JUSTICE J.P. SINGH

ORDER
25.04.2007

%

In this petition it has been prayed that a mandamus be issued commanding the Respondents to forthwith consider and decide Representation made by the Petitioner for de-notification of the subject land from acquisition proceedings after giving the Petitioner an opportunity of being heard. It has further been prayed that the Respondents be restrained from taking over possession of the subject land till the Representation of the Petitioner for de-notification is disposed of. The Petitioner has

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appended photographs disclosing wide-scale demolition having been carried out on 21.4.2007. Dr. Singhvi, learned Senior Counsel for the Petitioner has contended that a decade has passed since the acquisition of the land, during which possession had been enjoyed by the Petitioner. A copy of the Award No.90/80-81, Village Masoodpur has also been filed. It has been contended that several representations for de-notification have been made over the years but have been deliberately kept pending, last of them is dated 9.4.2007, dispatch of which is fortified by photocopies of the UPC as well as Postal Registration Receipts.

In our view the matters stands concluded by our decision in WP(C) No.17538-42/2006 titled Dharamvir Singh -vs- Lt. Governor, Delhi decided on 20.3.2007, the following salient extracts of which be reiterated:-

5. As has already been noted above, the writ petition bearing No. W.P. (C) 13577-666 of 2006 had been dismissed. Learned counsel for the Respondents have argued that this may have been for the reason that the Petitioner had filed an application under Section 48 of the Act asking for de-notification of the land in question in those Petitions. Their contention is that as soon as such a prayer is made, it cannot but be assumed that the Petitioner do not have any subsisting challenge to the

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*R. K. Singh*Examiner Judicial Department
High Court of Delhi

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J. K. Singh

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acquisition proceedings under the Act. In W.P. (C) No. 6384 of 2000 titled *Bajjnath Aggarwal Dharmarth Trust Society vs. The Lt. Governor* decided on 22.8.2006 another Division Bench of this Court had noted that during the pendency of that writ petition, "the Petitioner opted to seek de-notification of the land in question by filing an application in terms of S.48 of the Act. clearly the petitioner gave up its challenge to the validity of the Notification under challenge." Since this approach had not been contested before the Division Bench as is palpable from the absence of any analysis of all facets of this interesting legal nodus, the conclusion must be restricted to the facts of that case.

6. We have considered the appropriateness of passing orders similar to those passed in *Nanak Chand*. However, Mr. Gaurav Sarin and Mr. Arun Birbal, learned counsel appearing on behalf of Respondents, stoutly opposed such orders being reiterated in these proceedings and we find that this is for good reason. In the first place the Petitioners have approached this Court as late as on 22.11.2006 in respect of an assault to Notification dated 8.10.2004 under Section 4 of the Act. For two years, the Petitioners were sitting on the fence watching the fate of litigation initiated by persons similarly placed to them. Valuable and extremely scarce time of the Court has been taken up in argument on these petitions which fittingly have already been heard and disposed of in *Vishav Jagriti Mission*. It is obvious to us that the Petitioners had intentionally withheld their

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challenge till the judgment was delivered in those matters on 7.11.2006. This ground by itself is a sufficient reason to decline to exercise the extraordinary jurisdiction possessed by us by virtue of Article 226 of the Constitution, and we hold so.

7. Even otherwise it has been pointed out by Mr. Sarin, who also appeared in *Nanak Chand* that compared to the public purpose which is intended to be satisfied in the present proceedings there was no pressing or urgent need in that case. Hence in *Nanak Chand* the Respondents had not objected to the time bound disposal of Section 48 applications. Mr. Birbal had justifiably underscored the fact that the present Petitioners have approached the Court after an inordinate and unexplained delay of two years. Our attention has been drawn to the observations made by another Division Bench in *Raheja Hospital & Psychiatric Research Institute -vs- Lt. Governor of Delhi*, 121 (2005) DLT 193 (DB). In that case the Bench had observed that the "representation made by a landowner under Section 48 of the Act really cannot say anything more or different from what has already been indicated. This being the position, we are of the view that the Act does not give repetitive or unlimited opportunities to a landowner to challenge the acquisition process." To these observations we add that recourse to Section 48 of the Act leads to the passing of an administrative order which, in the absence of violation of principles of natural justice, ought not to be judicially reviewed. Although there is

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tendency to repeat the grounds of challenge under Sections 4 and 6 in the applications filed under Section 48 of the Act the considerations would be altogether different.

...

9. The writ petition is wholly without merit. Granting the indulgence and protection given in *Nanak Chand* would only cause further delay attributable to the pendency of judicial proceedings. It is our experience that when all else fails Section 48 is resorted to as a last measure which very often results in a second round of litigation. The consequence is delay in the implementation of public projects.

Dr. Singhvi has drawn our attention to another Division Bench Judgment in *Daya Nand (Shri) -vs- Union of India*, 112 (2004) DLT 957(DB) which, on close scrutiny, in fact militates against the Petitioner's case, since it was not a second round of litigation in the context of acquisition proceedings.

Mr. Poddar, learned counsel for the LAC, informs us that the decision in *Raheja Hospital and Psychiatric Research Institute -vs- Lt. Governor of Delhi*, 121(2005) DLT 193(DB) has been unsuccessfully assailed before the Hon'ble Supreme Court. Pursuant to arguments heard today we consider it appropriate to reproduce paragraphs 37 and 38 thereof:-

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37. A representation made by a landowner under Section 48 of the Act really cannot say anything more or different from what has already been indicated above. Therefore, even if it is held that a representation under Section 48 of the Act is maintainable, all that a landowner can do is to repeat and reiterate the objections taken by him at the stage of the Section 5-A inquiry and at the stage of challenging the Section 6 declaration. This being the position, we are of the view that the Act does not give repetitive or unlimited opportunities to a landowner to challenge the acquisition process. The right of a landowner, in the event of compulsory acquisition, is not like a double-barrel gun - one salvo to be fired challenging the Notifications under Section 4 and 6 of the Act (either simultaneously or separately), and another to be fired a little later to achieve the same end result, by demanding denotification under Section 48 of the Act.

38. For the reasons given by us above, we are of the view that the guidelines dated 2nd December, 1998 are non-statutory and, therefore, not legally enforceable. These guidelines do not confer any enforceable right on any landowner. Consequently, a landowner has no enforceable right to make a representation under Section 48 of the Act nor are the Respondents obliged to consider such a representation even if a landowner has made it, more particularly when the acquisition is upheld by a Court of law, as in the present case. However, if there is any deviation from these guidelines resulting in any

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discriminatory treatment against a landowner, then and only then could a landowner seek enforcement of the guidelines, which may even then be declined, if sufficient cause is shown. The right of a landowner in respect of the applicability of the guidelines is limited only to this extent.

Mr. Sarin, learned counsel for the DDA, has contended that the present Petition is infructuous and is not maintainable. The factum of demolition of the construction at the site has been pleaded by the Petitioner. On a perusal of the Award it appears, prima facie, that construction has taken place subsequent to the Award since there is no mention therein of any construction existing at the site. There is no reason for this Court to doubt that possession of the land has been taken on 24.1.2007 itself. Even if it constitutes paper possession, that would adequately comply with the requirements of the Land Acquisition Act, 1894 (for short LA Act). Both Sections 16 and 48 of the LA Act lay great emphasis on this factor. The former Section states that after an Award is made, the Collector may take possession of the land which shall thereupon vest absolutely in the Government, free from all encumbrances. The latter Section bestows on the Government leave and liberty to withdraw from the acquisition of

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High Court of Delhi

any land of which possession has not been taken. In other words, once possession has been assumed by the Government under Section 16, it loses the power to proceed under Section 48 itself. This places the present Petitioner on a much more tenuous ground than those in the precedents referred to before us. Therefore, the Petition itself is not maintainable (emphasis added).

In these premises, the argument of Dr. Singhvi to the effect that the precedents relied upon by Shri Poddar are not relevant since they deal with situation post disposal of the representation under Section 48 for denotification, are without any merit and need not engage our attention any further.

The Petition is dismissed with no orders as to costs.

VIKRAMAJIT SEN, J

J.P. SINGH, J

APRIL 25, 2007
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Examiner, Judicial Department
High Court of Delhi
Authorised Under Section 70
Indian Evidence Act,

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Writ Petition (C) No. of 2014

IN THE MATTER OF:

Sh. Satya Narain Prakash Punj
S/o Late Sh. Pt. Kanahya Lal Punj,
R/o: 10, Prithvi Raj Road,
New Delhi - 110011

Through His Attorney Holder

Sh. Uday Punj,
S/o Sh. Satya Narain Prakash Punj
R/o 55, Sultanpur Farms,
New Delhi - 110030

..... Petitioner

Versus

1. Union of India,
Through,
The Land Acquisition Collector,
Tis Hazari Courts, Delhi -110054
2. Delhi Development Authority,
Through its Vice-Chairman,
Vikas Sadan, B-Block, Near INA Market,
New Delhi - 110023
3. Delhi Administration,
Through its Secretary,
Land & Building Department,
Vikas Bhawan, I.P. Estate.
New Delhi -110002

..... Respondents

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING FOR ISSUANCE OF A
WRIT OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION
IN THE NATURE THEREOF QUASHING NOTIFICATION NO.
F.4(98)/64-L&H DATED 23-01-1965 UNDER SECTION 4 OF
THE LAND ACQUISITION ACT; NOTIFICATION/
DECLARATION UNDER SEC. 6 OF THE LAND ACQUISITION
ACT BEARING NO. F.4 (98)/64-L&H(i) DATED 26-12-1968
AND ALSO FURTHER QUASHING THE AWARD BEARING NO.
90/80-81 DATED 29-12-1980 IN RESPECT OF THE
PETITIONERS' LAND BEARING KHASARA NO. 67, 86,

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479/396/87, 480/396/87 AND 88 ADMEASURING 30 BIGHAS 14 BISWAS, SITUATED WITHIN THE REVENUE ESTATE OF VILLAGE MASOODPUR, IN THE UNION TERRITORY OF DELHI AND FOR A WRIT OF MANDAMUS OR ANY OTHER WRIT OR DIRECTION DECLARING THE LAND OF THE PETITIONERS' FREE FROM ACQUISITION UNDER SECTION 24 OF THE (2) OF THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013

To,

The Hon'ble Chief Justice and his
companion Hon'ble Judges of the
Hon'ble High Court of Delhi at New Delhi

The humble petition of the Petitioner

MOST RESPECTFULLY SHOWETH:-

1. The Petitioner is a citizen of India and the present petition is being filed for the enforcement of the petitioners' fundamental and legal rights under the Constitution of India. Petitioner is filing the present writ petition through his duly constituted Power of Attorney Holder Sh. Uday Punj. A copy of Power of Attorney is enclosed herewith as **Annexure-P-1**.
2. That the petitioner is the absolute owner and/or bhumidar, of all the land comprised in Khasra Nos. 67, 86, 88, 479/396/87, 480/396/87 admeasuring 30 Bighas 14 Biswas situated in the Revenue Estate of Village Masoodpur, New Delhi (hereinbefore and hereinafter referred to as "Land in Dispute"), details of which are as under:

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<u>Name of owner</u>	<u>Khasra No.</u>	<u>Khatoni No.</u>	<u>Area</u>	
			<u>Bigha</u>	<u>Biswa</u>
Sh. Satya Narain Prakash Punj	67	66	4	01
	86	60	9	12
	479/396/87	54	3	12
	480/396/87	54	3	12
	88	60	9	17
		Total	30	14

3. That after the petitioner became the owner of Land in dispute in or around 1962, he constructed a boundary wall around the same and also constructed a pillared metal gate at the point of entrance to the Land in Dispute from the main road passing through Masoodpur Village. The petitioner also obtained an electricity connection after obtaining due sanction from the Municipal Corporation Delhi. After incurring huge and considerable expenses, the petitioner established a farm at Land in Dispute and developed it on modern lines. The petitioner constructed a big hall with a room constructed thereon which was to be used and was being all along used for the purposes subservient to agriculture. The petitioner also got a storage tank constructed thereon as there were no arrangements for irrigation. The petitioner also got constructed a well, fitted with a centrifugal pump, going deep into the earth through the solid rocks. The diameter of the well in about 12 feet and the same

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had been covered with concrete flooring. Besides this, he has planted an orchard and enclosed the land by a wire fencing etc. at rear.

4. That abovesaid land was notified for acquisition under section 4 of the Land Acquisition Act, 1894 (herein referred to as "the LA Act") bearing Notification No.F.4(98)/64-L&H dated 23-01-1965 published in the Delhi Gazette, Part IV, Delhi Administration on 28-01-1965, for acquisition of 4,826 Bighas 4 Biswas of land, which also included petitioner land. On the ground to the effect that Land in Dispute is likely to be required for the planned development of Delhi. This is followed by declaration under section 6 of the LA Act bearing Notification/declaration bearing No.F.4(98)/64-L&H(i) dated 26-12-1968 published in the Delhi Gazette, Part-IV, Delhi Administration on 16-01-1969. A copy of Notification No.F.4(98)/64-L&H dated 23-01-1965 and Notification/declaration No.F.4(98)/64-L&H(i) dated 26-12-1968 are annexed herewith and marked as **Annexure-P-2 & P-3** respectively.
5. That indisputably, no steps were taken by the Respondents to take possession of Land in Dispute even after the expiry of 12 years from the date of notification. Accordingly, in terms of sub-section (1) of Section 55 of the Delhi Development Act, 1957

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(hereinafter referred to as 'the DD Act') on 28-02-1979, the petitioner issued a notice to Respondent No. 1 and 2, by registered post, stating therein that though the prescribed period of 10 years has elapsed from the operation of the Master Plan & Zonal Development Plan and section 4 notification Land in Dispute had not been acquired. Petitioner believed that the land in question was never required for acquisition by the respondents for any public purpose, leave alone the public purpose as specified in the aforesaid Notification under Land Acquisition Act, 1894.

6. That since the respondents were acting in an illegal, unreasonable, arbitrary, discriminatory and unconstitutional manner with respect to Land in Dispute, the petitioner and his brother Mr. V. P. Punj (since deceased), whose lands were also covered in the said acquisition proceedings, challenged the said acquisition proceedings before this Hon'ble Court by way of a Civil Writ Petition No.1802/1980, praying therein, inter-alia, for quashing of the said acquisition proceedings.
7. That the said petition was clubbed alongwith a batch of other Writ petitions filed before this Hon'ble Court challenging the acquisition proceedings. The lead case

in the said batch was that of Roshanara Begum Vs. UOI & Ors bearing writ petition No.701/1981. The said writ petitions were decided by this Hon'ble Court in terms of the detailed order dated 14-12-1995 passed in the case of Roshanara Begum Vs. UOI & Ors reported as AIR 1996 Delhi 206, whereby this Hon'ble Court declined to quash the acquisition proceedings. Though, the writ petition filed by the petitioner was not dealt with individually, in writ petition bearing No. 1280/1980, this Hon'ble Court gave liberty to the petitioner to make a representation to the Government Authorities for de-notification.

8. That while the said writ petition was pending adjudication, Mr. C.B. Verma, Acquisition Collector, Delhi passed the Award bearing No. 90/80-81 dated 29-12-1980 in respect of Land in Dispute. However, despite passing of the said award way back in the year 1980, till date, neither has any compensation been paid to the petitioner, nor possession has been taken and the Land in Dispute has also not been released by the authorities. A copy of Award bearing No. 90/80-81 dated 29-12-1980 is annexed herewith and marked as Annexure-P-4.
9. That petitioner in terms of the order of this court made a representation under Section 48 of the Land

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Acquisition Act, 1894 for de-notification of his land from acquisition. That almost 19 years have passed from the date of decision by the Hon'ble Supreme Court; however, till date, the acquisition process of the Land in Dispute has not been completed. The petitioner on the other hand has, vide his various representation requested the respondents, to de-notify Land in Dispute on the grounds set out in the said letters. However, the respondents have neither considered the representations made by the petitioner nor have they bothered to respond to the same. Since, the structure on Land in Dispute has been in existence prior to the issuance of the Section 4 of the notification, neglect/ failure on the part of the respondents to consider the representations made by the petitioner for de-notification of Land in Dispute is a breach/ violation of the statement made by the counsel for the State before the Hon'ble Supreme Court.

10. That Land Acquisition Act, 1894 has now been repealed and substituted by the Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which has come into effect on 01-01-2014. By virtue of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,

2013, subject acquisition shall be deemed to have been lapsed where the award under Section 11 of the Land Acquisition Act, 1894 is made more than 5 years prior to the commencement and no compensation has been paid to the owners. Section 24 of the Act, 2013 reads as follows:

"24. (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,-

(a) Where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) Where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act.

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Provided that where an award has been made and compensation in respect of a majority of land holding has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

11. That the new Land Acquisition Act has also taken note of the inequity and injustice prevailing under the old land acquisition regime and that it specifically included Section 24 in Chapter-IV of the Act. Under Section 24(2) of the Act, in cases of acquisition proceedings initiated under the Old Act, where the award has been made five year or more prior to the commencement of the New Acquisition Act, all cases where the possession of the land has not been taken or the compensation not paid, the entire acquisition proceedings stands lapsed.
12. That as has been held by the Hon'ble Supreme Court in a recent case in *Civil Appeal No. 877/2014, Pune Municipal Corporation & Anr. Vs. Harakchand Misirimal Solanki & Ors. "Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013"* puts in place entirely new regime for compulsory acquisition of land and provides for new scheme for compensation, rehabilitation and resettlement to the affected families whose land has been acquired or

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proposed to be acquired or affected by such acquisition. Section 24(2) enacts that in relation to the land acquisition proceedings initiated under 1894 Act, where an award has been made five years or more prior to the commencement of the 2013 Act and either of the two contingencies is satisfied, viz (i) physical possession of the land has not been taken or (ii) the compensation has not been paid, such acquisition proceedings shall be deemed to have lapsed. Copy of the judgment dated 24-01-2014 is enclosed as Annexure-5.

13. The full Bench of the Hon'ble Supreme Court in the above stated case while relying upon the retrospective clause quashed the acquisition and ordered the return of the land to the original owners and thereby upheld the real intention of the legislature behind the promulgation of the New Land Acquisition Act. The Hon'ble Supreme Court further declared that in every case of pending acquisition, where the award has been made 5 years or prior to the coming into effect of the New Land Acquisition Act and where the possession has not been taken over or the compensation has not been paid or deposited in court under Section 31 of the Land Acquisition Act, 1894, the entire acquisition shall be deemed to have been lapsed. The above judgment has been followed by this

Hon'ble Court in the recent judgments titled as *Jagjeet Singh Singh & Ors. VS. Union of India & Ors. decided on 27-05-2014* and *Ashwal Vadera Vs. Union of India & Ors. decided on 30-07-2014*. A copy of Judgments dated 27-05-2014 and 30-07-2014 are annexed herewith and marked as **Annexure-P-6 & P-7** respectively.

14. The Hon'ble Supreme Court has observed that the New Land Acquisition Act is a beneficial piece of legislation and Section 24 of the New Act is a significant clause in the law.
15. Further, the Ministry for the Rural Development, Government of India, in order to ensure that the benefits of the Section 24 of the New Land Acquisition Act, especially that of the Section 24 (2) of the New Land Acquisition Act is available in all cases of stale and pending acquisition proceedings had sought to issue advisory or administrative orders. The Hon'ble Minister, who has been the harbinger of the New Land Acquisition Act, had sought to define and clarify "taking over of Physical Possession" as an exercise where the land has been physically demarcated and effective physical and absolute control has been taken over. The Solicitor General of India's opinion was sought on the operability of Section 24 of the New

Act. He submitted his opinion on 28-12-2013 with a further clarification on Section 24 (2) therein on 15-01-2014. The advisory of the Hon'ble Minister was approved by the Solicitor General of India in his opinion dated 15-01-2014 sent to the Ministry of Rural Development. The clarification on the aspect of Physical Possession was in line with legal definition of the said term given by the Hon'ble Courts in series of case that the physical possession has to be real and effective possession and not just possession on papers.

16. The Hon'ble Supreme Court has further clarified its stand in *Bharat Kumer Vs. State of Haryana* [CA No. 1971/2014 and *Bimla Devi & Ors. VS. State of Haryana & Ors.*(CA No. 3871/2014)] as regards the retrospective clause mentioned in Section 24 of the New Land Acquisition Act. In the said cases the Hon'ble Supreme Court while relying upon the retrospective clause quashed the acquisition and ordered the return of the land to the original owners and thereby upheld the real intention of the legislature behind the promulgation of the New Land Acquisition Act.
17. Moreover, in a recent press note by the Government of India it has been reiterated that the decisions of the

Hon'ble Supreme Court in *Bimla Devi Vs. State of Haryana* delivered on 14-03-2013 has upheld the validity of the of the retrospective clause (Section 24 (2) of the New Land Acquisition Act) in its entirety vis-à-vis compensation and physical possession.

18. That more than 34 years have lapsed from the day of the award dated 29-12-1980 made under Sec 11 of the Land Acquisition Act, 1894 but the legal possession has not been taken and compensation has also not been paid. Consequently proceedings initiated under the Land Acquisition Act, 1894 shall be deemed to have lapsed, entitling the petitioner to reclaim possession and a corresponding obligation of the Respondent to release the said land from acquisition.
19. That the authorities have failed to take the possession of the said land even in the long span of 34 years after the award as it is apparent that the said piece of land is not required or is being planned for any developmental purpose.
20. That the petitioner has not received any part of the compensation towards the acquisition of the said land. The said land is no more required for the very public purpose under the notifications referred above, and the public purpose also seems to be frustrated due to the inaction of the authorities.

21. The size of the land is very small and its release will not materially affect the public purpose, if any and the same can be given effect to without acquisition of the said land. The said land is surrounded by the village abadi area within the statutory limit. The said land is surrounded by the market place and abadi and it cannot be used for any public purpose except by first acquiring and demolishing the surrounding village abadi and marketplace, which is neither feasible nor practicable for the Government. Due to the location of the said land, it cannot be used for any public purpose. That because the unexplained and unreasonable delay of 34 years has rendered the instant acquisition futile and unreasonable.
22. That till today the possession of the said land has not been taken over. Almost 48 years have been passed since the Section 4 notification and nothing has been done, clearly, there was not specific purpose for which said land had been notified and if there was any then, said purpose has either been frustrated / given up by the Government or it was not important.
23. That merely because the Government has the power to acquire land does not mean that it can acquire the same, without any purpose or reason. The Government has sought to acquire the said land

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without any reason or purpose and has kept it on hold for 42 years. It is unimaginable that a land is required by the Government for an alleged planned development which has not taken place in 48 years no proposal for any development on the said land has been considered. Therefore, there was and there is no need for acquisition of the said land much less instant one in the interest of general public.

24. That in the given circumstances, there is no other alternative efficacious remedy available to the petitioner than to file the present writ petition.
25. That the petitioner has not filed any other writ petition either before this Hon'ble Court or before the Hon'ble Supreme Court of India.

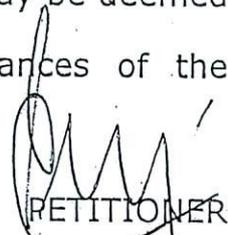
PRAYER

In view of the abovementioned facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- A. Issue a writ of Certiorari or any other writ, order or direction in the nature thereby quashing the Notification No.F.4(98)/64-L&H dated 23-01-1965 under section 4 of the land acquisition act; Notification/declaration under Section 6 of the Land Acquisition Act bearing No.F.4(98)/64-L&H(i) dated 26-12-1968 and also further quashing the Award

bearing No. 90/80-81 dated 29-12-1980 in respect of the petitioners' land bearing khasara No.67, 86, 479/396/87, 480/396/87 and 88 total measuring bearing No. 30 bighas 14 biswas, situated within the revenue estate of village masoodpur in the Union Territory of Delhi and declaring that the proceedings under Land Acquisition Act, 1894 shall be deemed to have lapsed by operation of Section 24 (2) Of The Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation And Resettlement Act 2013.;

- B. Issue a writ of Mandamus or any other writ directing the Respondents to release the petitioner's Land bearing khasara No.67, 86, 479/396/87, 480/396/87 and 88 total measuring bearing No. 30 bighas 14 biswas, situated within the revenue estate of village masoodpur in the Union Territory of Delhi, from acquisition; and
- c) Pass such other or further order(s) as may be deemed fit and proper in facts and circumstances of the present case.


PETITIONER

THROUGH

ANJU BHATTACHARYA & ELGIN MATT JOHN,
Counsel for Petitioner,
LEGAL CONCEPTS
B-6, Chirag Enclave, New Delhi -110048.
Mo: 9650034014

NEW DELHI
DATED: 17-09-2014

IN THE HIGH COURT OF DELHI AT NEW DELHI

C.M. No. _____/2014

In

Writ Petition (C) No. _____ of 2014

IN THE MATTER OF:

Sh. Satya Narain Prakash Punj Petitioner

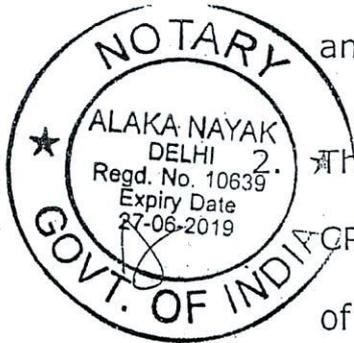
Versus

Union of India & Ors. Respondent

AFFIDAVIT

I, Uday Punj, S/o Sh. Satya Narain Prakash Punj, aged about 52 Years, R/o 55, Sultanpur Farms, New Delhi-110030 do hereby solemnly affirm and declare as under:

1. That I am petitioner in the above mentioned matter and as such am well conversant with the facts of the case and competent to depose the present affidavit.



That the accompanying application under section 151 CPC for exemption from filing certified and dim copies of annexure has been drafted by the counsel under my instructions, read over to me and understood by me and the contents of the same are true and correct to my knowledge.

I identified the deponent who has signed in my presence

[Signature]
DEPONENT

VERIFICATION

7 6 SEP 2014

Verified at New Delhi on this the ___ day of September, 2014 that the contents of the above affidavit are true to my knowledge and information received and nothing material has been concealed there from.

CERTIFIED THAT THE DEPONENT
Shri/Smt./Km. Uday Punj
S/o, W/o R/o. S. T. Punj
Sultanpur Farms, New Delhi
Identified by Shri/Smt. Arjun Chatterjee, A.C.
Has solemnly affirmed before me at
Delhi on as Sl. No. 15
That the contents of the affidavit which
have been read & explained to
him are true & correct to his knowledge

[Signature]
DEPONENT

7 6 SEP 2014

NOTARY