

E-22, E-33

41

Sub: REVIEW OF Master Plan for Delhi 2021-A Participative Approach
18th Feb 2012 Hindustan Times Pres Clipping

Sir,

I want to bring some facts of Construction of Road Crossing of 58 & 64 and alignment from GT Road to G.T.B hospital.

Director (P&I) Delhi-2
D.D.A. Vikas Minar N. DELHI-2
By No. 4-252
Date 30/11/12

Modified Zonal Plan of Zone E on the basis of Recommendations of Screening Board held on 27.9.95, approved on 9.10.95 and by the Authority (resolution No 56/96 dated 17.6.95) and Authority Resolution No 108/96 dated 27.8.96 and Approved by MOUA & vide latter no K-13011/15/93-DD IB dated 6th July 1998. Para 4.15.6 other Proposal sub Para IV) Division b) Grade separator with Road No 58 and 64 with G.T. Shahdara Road.

Originally road was 5 gathas ie about 42 feet, PWD realign the road as per provisions of master plan and got approved as per norms by PWD 23(DS), II Nd Nizamudin, Bridge East Side, Delhi-92 appointed M/s Craphts Consultants (I) PVT LTD, 14/3, Mathura Road, Faridabad as Consultants in year 2005. Consultants Drg No CRTS/PWD/RD-58&64/102 was approved in 4th Meeting Technical committee for the year 2005 held on 22.7.2005 of Master Plan for Delhi wide File no F1(14)2005-MP/229 and Item No 23/2005. Consultants Drg No CRTS/PWD/RD-58&64/102 was also filed in WP© 17066-75/06 & CM Nos. 14069/2007, 4535/2007, 15847/2007 and the same was Exhibited RA in the case of Sanjay Goel & Others Vs UOI 7 Others along with others 9 more writs and Judgment was announced on 9th May 2008. Barkha Khana & ORS filed an SLP against the orders of High Court in Supreme Court of India vide Petition for Special Leave to Appeal (civil) No. 14050-14055 of 2008, SLP was Dismissed with the orders

"We are not inclined to interfere in these matters. The special leave petitions are dismissed."

Copy of the same was collected from office of Executive Engineer, PWD. Copy enclosed.

When the scheme went to Land owning Agency to provide land joint survey was carried out by DDA, L&B and LAC office 13.08.2007 and 17.08.2007 which clearly states that that road is to be constructed PWD considering existing road centre as centre i.e. 22.50 Meters on left and 22.50 on right on existing centre. In addition to this during it was settled that exact breakup list of khasra will be prepared separately.

While Land acquisition no list of road Breakup was prepared before Land acquisition proceedings started and issued Notifications ie, 4,6, and award No 3/2009-10 (NE) of Village Jhilmil Tahirpur, has been announced . For Khasra no 446/443min (0-06 Biswa), 381/302-299 min(0-03 Biswa), 381/302-299/2 MIN(0-10 Biswa), 381/302-299/3min (1Bigha 15 Biswa, 383/1min (0-08), 383/2min (0-16 Biswa). Total (4 Bigha-03 Biswa). **28 Meters of land is available** at site up to existing building so question of Land acquisition for Road does not arise.

Matter was taken up by Dilshad Garden welfare Association (Regd), with the Ld chief minister and Meeting was also taken up yourself on 15-10-07 Directing Sh Singhal CE, PWD to Put up proposal. In this regards no efforts have been taken till date accept delaying the matter to settle.

As Per malafied /Changed Drawing shifted Road will and bring a number of Problems like Road Jams, Delay in emergency services of Hospital by namajees during prayer. In addition to this Demolition Masjid, Developed Ladies Zim & Park which was constructed by MCD under Bhagidari , Mazars may explore major law and order problems for the long time.

In view of above the existing Masjid may kindly be treated as end road side and Road may kindly be constructed on the staff to be demolished as constructed without sanction and in shabby Conditions Qrs of Daya Nand Hospital, existing road.

You are requested to kindly look into it for Interest of Public.

Yours faithfully



Sh Abdul Aziz
519, A/1 Dilshad Garden
Delhi 110095

Mob no 9818041601

9911964922

IN THE HIGH COURT OF DELHI AT NEW DELHI

1. WP(C)17066-75/06 & CM Nos.14069/2007, 4535/2007,
15847/2007

SANJAY GOYAL & ORS.Petitioner
Through Ms. Nandini Sahni with
Mr. Kumar Vikram, Advs.

versus

UOI & ORS.Respondent
Through Ms. Parminder Kaur for
Ms. Monika Garg, Adv. for
UOI
Mr. Sanjay Poddar, Adv. for
LAC

WITH

2. WP(C) 17302/2006 & CM No.14211/2006

SHEELA DEVIPetitioner
Through Mr. Ginny J. Rautray, Adv.

versus

UOI & ORS.Respondent
Through Mr. Tarun Sharma, Adv. for
UOI
Mr. Sanjay Poddar, Adv. for
LAC
Mr. Devendra Nautiyal for
Mr. Anoop Bagai with
Mr. Devendra Nautiyal, Adv.
for MCD
Mr. Deepak Khadaria, Adv.
for DDA

WITH

3. WP(C) 17325-28/2006 & CM No.14253/2006

BARKHYA KHANNA & ORS.Petitioner
Through Mr. Pawan K. Behl, Adv. for
IAC

versus

UOI & ORS.	Respondent
	Through	Ms. Parminder Kaur for
		Ms. Monika Garg, Adv. for
		UOI
		Mr. Sanjay Poddar, Adv. for
		LAC

WITH

4. WP(C) 17339/2006 & CM No.14263/2006

G.R. KHAN	Petitioner
	Through	Mr. B.P. Gupta, Adv.

versus

UOI & ORS.	Respondent
	Through	Ms. Parminder Kaur for
		Ms. Monika Garg, Adv. for
		UOI
		Mr. Sanjay Poddar, Adv. for
		LAC

WITH

5. WP(C) 17340/2006 & CM No.14265/2006

DAYA NAND SHARMA	Petitioner
	Through	Mr. B.P. Gupta, Adv.

versus

UOI & ORS.	Respondent
	Through	Ms. Parminder Kaur for
		Ms. Monika Garg, Adv. for
		UOI
		Mr. Sanjay Poddar, Adv. for
		LAC

WITH

6. WP(C) 17341/2006 & CM No.14267/2006

SHASHI RANI	Petitioner
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Through Mr. B.P. Gupta, Adv.

versus

UOI & ORS.

Through

..... Respondent
Ms. Parminder Kaur for
Ms. Monika Garg, Adv. for
UOI
Mr. Sanjay Poddar, Adv. for
LAC

WITH

7. WP(C) 17344/2006 & CM No.14271/2006

RAM KISHAN SINGHAL

Through

.....Petitioner
Mr. B.P. Gupta, Adv.

versus

UOI & ORS.

Through

.....Respondent
Ms. Parminder Kaur for
Ms. Monika Garg, Adv. for
UOI
Mr. Sanjay Poddar, Adv. for
LAC

WITH

8. WP(C) 18223/2006 & CM No.15156/2006

SURENDER KUMAR JAIN

Through

.....Petitioner
Mr. Anil Aggarwal, Adv.

versus

UOI & ORS.

Through

.....Respondent
Ms. Parminder Kaur for
Ms. Monika Garg, Adv. for
UOI
Mr. Sanjay Poddar, Adv. for
LAC

WITH

9. WP(C) 2455/2007 & CM No.4562/2007

LAXMAN GUPTA & ORS.Petitioner
Through Ms. Nandini Sahni with Mr.
Kumar Vikram, Advs.

versus

UOI & ORS.Respondent
Through Ms. Arcahana Gaur, Adv. for
UOI
Mr. Sanjay Poddar, Adv. for
LAC
Mr. J.K. Chaudhary, Adv. for
Respondents 2-3
Mr. Arun Birbal, Adv. for
GNCTD

WITH

10. WP(C) 2785/2008 & CM No.5345-47/2008

PREM SINGH CHAUHANPetitioner
Through Mr. V.N. Chaturvedi, Adv.

versus

UOI & ORS.Respondent
Through Mr. Sanjay Poddar, Adv. for
LAC

Date of Hearing : April 25, 2008

Date of Decision : May 09, 2008

CORAM:

HON'BLE MR. JUSTICE VIKRAMAJIT SEN
HON'BLE MR. JUSTICE S.L. BHAYANA

- | | |
|--|-----|
| 1. Whether reporters of local papers may be allowed to see the Judgment? | Yes |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the Judgment should be reported in the Digest? | Yes |

ATTESTED

hda
10/05/2008

VIKRAMAJIT SEN, J.

J U D G M E N T

1. This batch of writ petitions has been filed by several owners of industrial units situated on plots falling within the Jhilmil Industrial Area. The Petitioners have sought a Declaration to the effect that Notification dated 14.10.2005 under Section 4, Declaration under Section 6 dated 15.10.2006, and Notification dated 9.11.2006 under Sections 9 and 10 of the Land Acquisition Act, 1894 (LA Act for short) in respect of the lands and built-up structures should be struck down for the reason that they are violative of Articles 14, 19 and 300A of the Constitution of India. The Petitioners have also prayed for compensation and for allotment of alternate plots. The Petitioners have alleged malafides against the Respondents so far as the need behind the acquisition is concerned. Interim Orders directing the parties to maintain status quo were passed on the first date of hearing, have been extended from time to time, and subsist till date.

2. Briefly stated, the Respondents intend and plan to complete the construction of a forty-five metre wide road, Road No.58, connecting/leading to Road No.64. If these two roads have to be interconnected they would have to pass under G.T. Road which, at the point of conjunction, is already elevated road or flyover. Prior

*Writ Petition
No. 135*

No useful purpose would be served for the RUB to be constructed unless a passage through the existing Jhilmil Industrial Area is readily available. The Petitioners are the owners of land and structures in the Jhilmil Industrial Area which would perforce be required to be acquired if Road No.58 is to have a width of forty-five metres eventually connecting it with Road No.64.

4. As we already indicated above, we are of the opinion that the public purpose element of the acquisition is impervious to challenge. It is essential for the smooth and free flow of traffic in the entire area running into several square miles. Easy access to arterial roads is an urban essentiality.

5. The submission and argument pertaining to malafides which had actively engaged our attention are briefly two-fold. Even after several hearings in the writ petitions the Respondents had not taken any steps towards acquiring properties and lands contiguous to the existing Road No.64, which presently is approximately seventy feet in width. It is quite palpable that if Road No.64 continues to be only seventy feet in width, a bottleneck would come into existence at the confluence of the two Roads hence defeating the very purpose behind the impugned Acquisition. The entire purpose of acquiring the Petitioners' lands, on either side of

to this confluence of roads under G.T. Road, Road No.58 would have to negotiate the Railway Line which, in these environs, runs roughly parallel to G.T. Road. A decision has been taken by the Respondents to construct a road under bridge (RUB) so that the existing Railway Line would not be disturbed. After traversing under the Railway Line, the road would have to cross through the Jhilmil Industrial Area so as eventually to connect with Road No.64. At the present moment, traffic on Road No.58 has perforce to travel several kilometres in order to have access to G.T. Road. Traffic having to cross G.T. Road or traverse on the other half of G.T. Road would require to halt in traffic, which would be obviated once Roads 58 and 64 are interconnected. There cannot be two opinions that it is strongly salutary, if not absolutely necessary, for the proposal to be fully implemented. We are firmly of the view that it is in public interest that the project requires to be completed.

3. We have already mentioned that Road No.58 is presently forty-five metres in width, and stands constructed almost upto the Railway Line. We have been informed, and it has not been controverted, that the construction of the RUB by extant practices has to be carried out by the Railways (IRCON). The Project has been held up because of the interim Orders passed by this Court.

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the proposed extension of Road No.58, would be defeated. Faced with this predicament Mr. Poddar, Advocate for the LAC and other counsel appearing for the Delhi Development Authority (DDA) had explained that Road No.64 is already forty-five metres/150 feet in width at points further from the existing Mosque/Masjid. Since it is presently approximately seventy feet in width, acquisition of land was essential, and this was proposed to be effected in the second phase. Learned counsel for the Petitioners had vociferously attacked the bonafides of the Respondents by reference to earlier acquisition proceedings which were dropped on remonstrations received from a local politician and by the Masjid Authorities. In this context our attention has been drawn by learned counsel for the Petitioners to Notification dated 17.11.1994 published in the Delhi Gazette. We found merit in these misgivings of the Petitioners and accordingly were of the opinion that the reservations and doubts of the Petitioners would be set at rest no sooner Phase-II was given effect to by the Respondents. On July 18, 2007 proceedings were adjourned in order to enable Mr. Poddar to obtain instructions regarding the so-called "Phase-II" acquisitions. By Notification No.:F.7(13)/02/L&B/LA/8707 dated 13.9.2007 under Section 4 of the LA Act the intendment to acquire 11 bigha and 5 biswa comprising lands bearing sundry mentioned Khasra Nos. in the Notification has been published.

ATTEST

✓ 6. We have now been shown a recommended layout Plan duly signed by Shri Umesh Misra, which we have marked as Exhibit RA. Its perusal shows that Road No.64 will be roughly in alignment with Road No.58, being of the same width. This has necessitated the acquisition of a large portion of the existing Mosque and buildings towards the East including that which is owned by the local politician. Commercial properties have also been notified for acquisition on the Southern Side and government properties in these areas have been earmarked for being taken over for the purpose of widening of Road No.64. When completed, the project will ensure movement of traffic along Road Nos.58/64 as well as access to the G.T. Road on both its sides, that is, in either direction viz. towards ISBT or towards Ghaziabad.

7. Exhibit RA also depicts that the Mosque is to be relocated. Learned counsel for the Petitioners had referred to statements allegedly made by Hon'ble the Lieutenant Governor to the effect that the religious structures should not be shifted. However, we have had the advantage of perusing the official records of the Project. The Note of the the Additional Secretary(L&B) is dated 4.4.2008 which states as follows:-

200. For the 1st phase of this project, section 6 notification for the acquisition of 15 bigha 07 biswa of land was issued on 5.2.2006 (page 137/C) with the

approval of Hon'ble L.G. (page 31/N). The land owners have challenged the acquisition by filing a writ petition in the High Court. The Hon'ble High Court had ordered for the maintenance of status quo. As a result of which the possession of the land has not yet been taken. In the writ petition, the land owners have claimed that the Govt. is not sincere in acquisitioning the land for the 2nd phase of the project. The matter has been taken up by the Hon'ble Court many times and the Hon'ble Court has been asking us the status of the acquisition for the 2nd phase of the Project. The case is coming up for hearing in the Court on 04.04.2008.

201. In the 2nd phase of project, total land required to be acquired is 11 bigha 05 biswa for which section 4 notification was issued on 13.9.2007. The approval of the Hon'ble L.G. is on page 53/N. Out of the 11 bigha 05 biswa of land, only 4 bigha 03 biswa of land is a private land. The remaining land is with the DDA & Delhi Govt. Therefore, only 4 bigha 03 biswa of land is required to be acquired for phase-II project.

202. The LAC has considered the objections u/s 5A and had submitted his report, but has not found merits in the objections and has recommended for the acquisition of the land. However, in this private land, a Mosque is also there which will be affected in land acquisition. The LAC has pointed out that without the acquisition of the Mosque land, the project will not be completed. The LAC has suggested that the Govt. may take a view whether the Mosque land may be acquired or not. As per report of the Chief Engineer (PWD) available on page 173/C, the Mosque

land is 151 sq. mtrs. which is approx. 3 biswas.

203. The acquisition of land for the 1st phase of the project, has been linked with the acquisition of the land for the 2nd phase of the project. This is a very important project of the PWD which is for providing missing link and RUB on Road No.58 which will link Yamuna Vihar Sports Complex ITI Bridge, Vivak Vihar-G.T. Road Swami Daya Nand Hospital GTB Hospital. This is a Master Plan Road. The site plan of both part of the project is available in the file on page 176/C.

204. In view of these facts, it is suggested that the Hon'ble L.G. may be requested to kindly consider the above mentioned facts and approve the issuance of section 6 notification for 4 bigha 03 biswa of land including the Mosque land. The decision for demolishing the Mosque may, however, be taken subsequently in consultation with the Religious Committee. In this 1st Phase-I of the project also, a Mandir is coming in the way which is proposed to be demolished in consultation with the Religious Committee (PWD Report on page 110/C).

8. The approvajkml of Hon'ble the Lieutenant Governor is available on the file. After due consideration of the Report under Section 5A of the LA Act, Section 6 Notification under the LA Act in the second phase, that is along Road No.64, has been duly published. We are confident that Phase-II, that is widening of Road No.64 immediately at its confluence with

ATTESTED
P. S. D. S.

Road No.64, shall be carried out in consonance with Exhibit RA.

9. We shall briefly mention some of the arguments on behalf of learned counsel for the Petitioners, which we see as having been raised in desperation. The argument that the DDA has not granted its approval is without merit. Learned counsel for the Petitioners had also submitted that if the width of the Roads are reduced to hundred feet, the lands of the Petitioners may be saved. It is not the province of either this Court or of the Petitioners to dictate how the Respondents should carry out public works and road construction/widening even after their objections have been adjudicated. So long as malafides or arbitrariness is absent the Plan of the Respondents should not be faulted or modified. Photographs have also been produced by the Petitioners to show that the Delhi Metro Rail Corporation (DMRC) has carried out construction of boundary walls under the G.T. Road Flyover and, therefore, traffic cannot cross under the G.T. Road, that is, through Road No.58 and Road No.64. The DMRC has confirmed that these are only temporary structures and can be removed at any stage. Learned counsel for the Petitioners have also contended that because of pillars erected by DMRC on proposed Road No.58, interconnectivity between it and Road No.64 is not possible and hence the Project should be treated as having been disbanded.

ATTENTIVE
P. D. D.

However, we do not find any serious impediment of traffic travelling through Road No.58 to Road No.64 and vice versa despite the location of these pillars. The argument is without merit.

10. The only remaining argument to be considered pertains to the allotment of alternate plots/sites to the Petitioners. It is trite that the Petitioners shall be paid compensation at the market value of the land together with solatium as per the provisions of the LA Act including its Section 23. In *Ravi Khullar -vs- Union of India*, 2007 V AD (SC) 330: AIR 2007 SC 2334 the claim of some of the Petitioners whose lands had been acquired, for allotment of alternative site, was turned down by the Court. Their Lordships observed thus:-

43. The documents relied upon by the respondents do establish that though at different stages the question of rehabilitation of the affected persons as a result of the acquisition was considered, no firm decision was ever taken to rehabilitate the industries affected thereby. The decision taken was only to provide alternative sites for residence of the oustees from village Nangal Dewat in village Rangpuri. The proposal to allot lands for setting up the displaced industrial units was always turned down and it was decided that owners of such industries would only be entitled to compensation under the Land Acquisition Act. Having regard to the material on record we are satisfied that no scheme was ever

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famed for rehabilitation of industrial units. The scheme was framed only for the affected villagers of village Nangal Dewat and that too for residential purpose alone.

44. Learned counsel for the appellants strenuously urged before us that the land in village Rangpuri is still available and even if the three industries with which we are concerned in the instant batch of appeals are allotted land to the extent of 25,000 sq. yards each, as recommended in the Joint Survey Report, their purpose will be served. We are afraid we cannot accede to the request because that is a matter of policy and it is for the government to take appropriate decision in that regard. In law we find no justification for the claim that even in the absence of a scheme for rehabilitation of displaced industries alternative sites should be allotted to them for relocating the industrial units. It is no doubt true that the acquisition of land in village Rangpuri by issuance of Notification under Section 4 of the Act on December 23, 1986 was for the public purpose, namely for rehabilitation of the persons displaced or affected due to the expansion/development of the Palam airport. Learned counsel appearing for the State contended that this public purpose has been achieved and the persons who were displaced from village Nangal Dewat in view of the acquisition of their lands for the development of Palam airport have been allotted plots in village Rangpuri for their residence. There is nothing in the Notification which obliges the State to provide equal alternative site to the industries for the rehabilitation.

We find substance in the stand of respondents.

ATTESTED
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In view of these pronouncements the Petitioners do not enjoy any vested right to claim allotment of alternative plots in lieu of their properties and/or in addition to the compensation receivable by them as a consequence of the acquisition of their properties.

11. For the reasons stated above, we find no further merit in the Petitions. All pending applications are dismissed. Interim Orders are recalled. Writ Petitions are dismissed with no order as to costs.

(VIKRAMAJIT SEN)
JUDGE

May 09, 2008
tp

(S.L. BHAYANA)
JUDGE

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E-Stamp
Indian Evidence Act

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VERIFIED TRUE COPY

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).14050-14055/2008

(From the judgement and order dated 09/05/2008 in CW No. 17074/2006 & CW No. 17325/2006 & CW No. 17326/2006 & CW No. 17327/2006 & CW No. 17328/2006 & CW No. 18223/2006 of The HIGH COURT OF DELHI AT N. DELHI)

BARKHYA KHANNA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report) (For final disposal)

WITH SLP(C) NO. 14096-14102 of 2008

(With appln. for directions and with prayer for interim relief)

SLP(C) NO. 14402 of 2008

(With prayer for interim relief and office report)

SLP(C) NO. 14404 of 2008

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 14405 of 2008

(With prayer for interim relief and office report)

SLP(C) NO. 14406 of 2008

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 14850 of 2008

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 14884 of 2008

(With prayer for interim relief and office report)

((For final disposal in all matters)

Date: 03/02/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE V.S. SIRPURKAR

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)

Mr. Pawan Kumar Behl, Adv.
Mr. Ajay Gaur, Adv.
Mr. Goodwill Indeevar, Adv.

Mr. Mukul Rohtagi, Sr. Adv.
Mr. A.V. Palli, Adv.
Mrs. Rekha Palli, Adv.
Ms. Nandini Sahni, Adv.

Mr. Balraj Dewan, Adv.

Mr. Manoj Sharma, Adv.
Ms. Nitya Singh, Adv.
Mrs. Kanchan Kaur Dhodi

For Respondent(s)

Mr. P.P. Tripathi, ASG.
Ms. Rachana Srivastava, Adv.
Mr. Mohd. Noorullah, Adv.
Ms. Himani Jadoo, Adv.

for DDA

Mr. V.B. Saharya, Adv. for
M/s. Saharya & Co.


for MCD

Mr. Sanjeev Sen, Adv.
Mr. Praveen Swarup, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard.

We are not inclined to interfere in these matters.
The special leave petitions are dismissed. However, four
months' time is given to the petitioners to deliver the
vacant possession to the Authorities.


[SUMAN WADHWA]
COURT MASTER


[SHASHI BALA VIJ]
COURT MASTER