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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgement delivered on :10.04.2017

+ **W.P.(C) 687/2016**

JOGINDER PAL KAUR AND ANR

..... Petitioner

Through Ms.Masha Brar, Adv.

versus

UNION OF INDIA AND ORS

..... Respondent

Through Mr.Gigi C.George and Mr.Arun
Kumar, Advs. for R-1
Ms.Astha Tyagi and Ms.Sujatha
Bagadhi, Advs. for LAC/L&B
Mr.Sanjeev Sabharwal and Mr.Hem
Kumar, Advs. for DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

S. RAVINDRA BHAT, J (Oral)

W.P.(C) 687/2016 & CM No.2817/2016

1. The present petition seeks a declaration that the acquisition for khasra No.62(01-00) Village Behlolpur has lapsed in terms of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The facts preferred are that the land was intended to be

acquired under Section 4 of Land Acquisition Act on 23.6.1989 and the declaration was subsequently made on 22.6.1990. The award covers the petitioner's land. The averments in the proceedings are that neither possession was taken nor compensation paid. The respondents, representing the appropriate government has filed counter affidavit. Relevant portions of the reply/counter is as follows:

“6. That as per Naksha Mutzamin record of the answering respondents in village Behlolpur Khadar, Tehsil Mehrauli petitioner Smt. Joginer Pal kaur the owner of land at Khasra No. 62(01-00) and the possession of the said land was taken over by the answering respondent on 21.04.2006. That as per Naksha Mutzamin and Statement 'A' compensation has not been paid to the Petitioner.

7. That in the present case the petitioners had challenged the acquisition proceedings by filing W.P (C) 2556/1990 before this Hon'ble Court in which dissenting view was given by the Division Bench on 10.09.1996. Thereafter, the matter was referred to third judge who was pleased to dismiss the Writ Petition filed by the Petitioner on 25.05.2005. That thereafter the Petitioner filed SLP(C) 24699/2005 in which leave was granted by the Hon'ble Supreme Court. That meanwhile the new Act came into force. That the Petitioners after withdrawing the SLP with liberty to approach this Hon'ble Court have filed the present Writ Petition.”

3. This Court is of the opinion that the relief claimed has to be granted in view of the decision of the Supreme Court in *Pune Municipality Corporation & Anr. V. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183. The Court clearly stated that with either of the conditions i.e. absence of the inability of the appropriate

Government to take over the possession or disburse compensation to the land owners would entitle the latter to the benefit of Section 24(2). In the present case the appropriate government has clearly admitted that compensation was not disbursed to the petitioner. Therefore in tune with the declaration of law in *Pune Municipality's* case and subsequent decisions, the Court is of the opinion that though the issue of possession is disputed, however, in line with the decision in *Pune Municipality* (supra) and subsequent decisions the relief claimed is to be granted. The declaration is issued that the acquisition has therefore lapsed with respect to the petitioners.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 10, 2017
VLD