

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

% *Date of decision: 1st November, 2017*

+ W.P.(C) 136/2017

LALIT KUMAR SHARMA & ORS Petitioners

Through: Mr. Ashish Gumber, Adv.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for
respondent L&B/LAC.

Mr. Pawan Mathur, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J (ORAL)

1. Petitioners have filed the present petition under Article 226 of the Constitution of India seeking a direction and declaration that acquisition proceedings with respect to land at Khasra No. 422 measuring 5 Bighas and 5 Biswas and Khasra No. 423 measuring 7 Bighas and 13 Biswas situated in the Revenue Estate of Village Ghonda Gujran Khadar, Delhi are deemed to have been lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (New Act). Learned counsel for the petitioners submit that neither the possession has been taken nor compensation tendered. In view thereof, present case would be squarely covered by the decision rendered by the Supreme Court of India in the case reported as **(2014) 3 SCC 183, Pune Municipal Corporation & Anr. V. Harak Chand Misiri Mal Solanki & Ors.**

2. Notice in this matter was issued on 10th January, 2017 and counter-affidavit has been filed by the respondent / LAC as per which the recorded owner and / or his successors / petitioners never turned up to claim the compensation and hence the same stands deposited in the Revenue Deposit. Learned counsel for the petitioners submit that the compensation was never tendered and hence deposit in the Revenue Deposit / Treasury by the respondent / LAC would not be acceptable.

3. Having heard the learned counsel for the parties, we deem it appropriate to extract Para 6 of the counter-affidavit filed by the respondent / LAC as under:

“6. That it is submitted that for the purposes of the planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 24.10.1961 which was followed by Notification u/s 6 & 17 (1) of the said Act dated 2.09.1966 for planned development of Delhi for the acquisition of the lands falling in Village Ghonda Gujran Khadar. The Award No. 9/73-74 dated 5.6.1973 also came to be passed in accordance with the law and in pursuance thereof, the actual vacant physical possession of the subject land falling in Khasra number 422 (5-05) and 423 (7-13) total (12-18) was duly taken on the spot on 21.06.1973 and handed over to the DDA on the spot by preparing possession proceeding on the spot. The petitioners in Para 5 of the writ petition has admitted that the physical possession is with the Government, however, the recorded owner and / or his successors / petitioners never turned up to claim the compensation for the reasons best known to them and the compensation was lying deposited in RD.”

4. The Supreme Court in Para 17 of the ***Pune Municipal Corporation & Anr.*** (*supra*) has held as under:

“17. While enacting [Section 24\(2\)](#), Parliament definitely had in its view [Section 31](#) of the 1894 Act. From that one thing is clear that it did not intend to equate the word “paid” to “offered” or “tendered”. But at the same time, we do not think that by use of the word “paid”, Parliament intended receipt of compensation by the landowners/persons interested. In our view, it is not appropriate to give a literal construction to the expression “paid” used in this sub-section (sub-section (2) of [Section 24](#)). If a literal construction were to be given, then it would amount to ignoring procedure, mode and manner of deposit provided in [Section 31\(2\)](#) of the 1894 Act in the event of happening of any of the contingencies contemplated therein which may prevent the Collector from making actual payment of compensation. We are of the view, therefore, that for the purposes of [Section 24\(2\)](#), the compensation shall be regarded as “paid” if the compensation has been offered to the person interested and such compensation has been deposited in the court where reference under [Section 18](#) can be made on happening of any of the contingencies contemplated under [Section 31\(2\)](#) of the 1894 Act. In other words, the compensation may be said to have been “paid” within the meaning of [Section 24\(2\)](#) when the Collector (or for that matter Land Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount available to the interested person to be dealt with as provided in [Sections 32](#) and [33](#).”

5. In our view any amount deposited in the treasury would not be a valid tender. Accordingly, acquisition proceedings initiated under the Land Acquisition Act, 1894 with respect to land at Khasra No. 422 measuring 5 Bighas and 5 Biswas and Khasra No. 423 measuring 7 Bighas and 13 Biswas situated in the Revenue Estate of Village Ghonda Gujran Khadar, Delhi are deemed to have lapsed. It is so declared. Resultantly the writ petition is allowed.

6. Since the possession of the land admittedly stands taken over, petitioners would be entitled to compensation which would be paid within a period of not later than one year from today in terms of the Act of 2013.

No costs.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 01, 2017/jg

