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

+ W.P.(C) 318/2016 & CM No.35283/2017

SIMLA DEVI

..... Petitioner

Through: Mr. M.P. Bhargava, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

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

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

25.09.2017

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1. The petitioner claims a direction that the suit lands bearing Khasra No.1931/1021 (3-06) and 4084/1930/1021 (0-18) Village Tughlakabad are free from acquisition.

2. The land in the present case including the suit lands was notified for acquisition under Section 4 and 17 of the Land Acquisition Act, 1894 (hereafter referred to as "the Act") on 13.04.1970 after which declaration was issued under Section 6 of the Act. Thereafter, the award was made on 04.11.1970 and physical possession apparently was taken earlier on 13.05.1970, soon after the first notification and the induction of the urgency clause. The petitioner contends that since possession of the land was not taken nor was compensation paid in respect of his share, acquisition

proceedings lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. In reply to the writ petition, the Government of NCT of Delhi in its counter affidavit states as follows:

“5. That it is submitted that the lands of village Tughlakabad were notified vide Notification under section 4 & 17 (1) of the Land Acquisition Act 1894 dated 13.4.1970 which was followed by Notification under section 6 of the said Act. That it is submitted that the then Land Acquisition Collector also passed an Award bearing No.40/70-71 dated 4.11.1970 and the actual vacant physical possession of the subject land falling in khasra number 1931/1021 (3-06) and 4084/1930/1021 (0-18) was duly taken on the spot on 13.5.1970 and handed over to the DDA on the spot. It is submitted that the acquisition affected persons did not challenge the acquisition proceedings as the owner of above-said two khasra numbers were one Tek Ram and Ved Pal, having ½ share each and the petitioner herein is claiming through the recorded owner namely Ved Pal. It is submitted that the compensation has duly been paid for half of the share to Tek Ram whereas the half of the compensation could not be paid and sent to RD on 26.12.1970.”

4. Having regard to the declaration of law in *Pune Municipal Corp. & Anr. v. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183, this Court is of the opinion that the petitioner is entitled to the relief to the extent of half share of her father Ved Pal, in respect of the lands i.e. khasra No.1931/1021 (3-06) and 4084/1930/1081 (0-18), Village Tughlakabad. A declaration is therefore issued that the said lands are free from acquisition and that the acquisition has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation

and Resettlement Act, 2013.

The writ petition is allowed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 25, 2017

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