

\$~14

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

+ W.P. (C) 424/2017, CM APPL.1987/2017

VIJAY MOHAN Petitioner
Through: Mr. Ram Kumar with Mr. K.K. Nangia
and Mr. R.B. Sisodia, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. Siddharth Panda, Advocate for
LAC/L&B.
Mr. Arun Birbal, Advocate for DDA.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
05.09.2017

The petitioner's land was acquired temporarily under Section 35 of the Land Acquisition Act, 1894 ("old Act") for a limited period of time. It is asserted that neither was the possession reported nor compensation paid to the petitioner and, therefore, the facts are covered by Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, ("the Act").

The respondents counter the allegations in the petition by asserting that the acquisition was merely temporary and that the

award had in fact assessed the market value of the compensation and that in the circumstances the writ remedy - based upon Section 24 (2) of the Act is not maintainable.

A plain view of the Section 24 (2) presupposes that there is a subsisting acquisition, whereby there is finality as to the acquisition of the lands divesting the land owner of his right and entitlement to the property in question. In the present case, however, the respondents had invoked the powers under Section 35 of the old Act which meant that the land owner was temporarily dispossessed of the property but his title and other rights over it survived. As to whether the land owner's complaint with respect to the possession continuing with the respondents or non-payment of the compensation or part thereof is correct or not, is therefore neither the subject matter of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 nor the writ proceedings.

The writ petition is, therefore, dismissed along with pending application.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 05, 2017

/vikas/