

\$~48

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

DECIDED ON : JULY 17, 2017

+ **W.P.(C) 625/2017 and CM APPL.2875/2017**

MAHAK SINGH

..... Petitioner

Through : Mr.Lalit Rawal with Mr.Sunil K.Goel,
Advocates.

versus

GOVT.OF NCT OF DELHI & ORS.

..... Respondents

Through : Mr.Arjun Pant, Advocate, for DDA.
Mr.Yeeshu Jain, Standing Counsel with
Ms.Jyoti Tyagi, Advocate for
L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S. P.GARG, J. (OPEN COURT)

1. Learned counsel for the petitioner seeks permission to place on record counter affidavit. The counter affidavit is hereby taken on record.

2. The petitioner seeks declaration that the acquisition of land in Khasra No.270 min (3-06)1/2 i.e.(01-13) 1/3rd share i.e.0-11 biswas having 1/5th share measuring 110 sq.yds. situated in the Revenue Estate

of Village Ghonda Gujran Khadar, Shahdara has lapsed under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

3. The petitioner avers that his father Bharat Singh was the recorded owner of the suit land. He died intestate, thereafter, petitioner inherited 1/5th share in the suit land. A Notification under Section 4 of the Land Acquisition Act was made on 23.09.1989. It included the suit land. Notification under Section 6 of the Old Act was made on 20.06.1990. Award bearing No.8/1992-93 was made thereafter.

4. The petitioner claimed that only symbolic possession of the suit land has been taken over by the respondents; its physical possession was never taken. No compensation, whatsoever, was paid to the land owners.

5. Para No. 5 & 8 of the counter affidavit filed by the respondents read as under:

5. That it is submitted that for purposes of planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 23.6.1989 which was followed by Notification u/s 6 of the said Act dated 20.6.1990 for planned development of Delhi for the acquisition of the lands falling in village Ghonda Gujran Khadar. That an Award bearing No.8/92-93 dated 19.6.1992 was also passed and the actual vacant physical possession of the subject lands falling in khasra numer 270 min (3-06) was taken on the spot by preparing possession proceedings dated 21.3.2007 and handed over to the DDA on the spot whereas the compensation was also paid to Sh.Narayan Singh ½ share and Sh.Rattan Singh ½ share, both sons of Sh.Tej Ram on 20.08.2007 for Kh.No.270 min (1-13) and the ownership of the Kh.No.270 min (1-13)

Gram Sabha Gaddhe. It is submitted that having taken the actual vacant physical possession of the subject land, the above-said persons applied for release of compensation and after completion of due formalities by them, the compensation was duly released in their favor.”

8. *That it is submitted that the Land Acquisition Act, 1894 did not provide any section which is akin to Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which provides for return of unutilized land to its erstwhile owners. It is further submitted that the present acquisition proceedings are not covered under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as not only the Award has been duly made but also the possession of majority of the awarded land has been taken as also the payment of majority of compensation to the recorded owners has been made. It is further submitted that the present acquisition proceedings are covered under Section 6 of General Clauses Act, 1897 and are not repealed as urged by the petitioners.*

6. It is evident that the possession of the suit land has since been taken on 21.03.2007. Compensation is stated to have been paid to the shareholders i.e.Narayan Singh (1/2 share) and Sh.Rattan Singh (1/2 share), both sons of Sh.Tej Ram on 20.08.2007 for Khasra No.270 min.(1-13). It further mentions that ownership of Khasra No.270 min.(1-13) is of Gram Sabha Gaddhe.

7. The petitioner has not placed on record any credible document to show if the suit land belonged to him or his father. The suit land was never mutated in petitioner's name in revenue record.

8. He did not move the respondents any time to claim compensation for acquisition of suit land. Khatauni of village Ghonda Gujran Khadar,

Shahdara placed on record pertains to the year 1976-77 where the name of the petitioner and his father does not find mention. The petitioner has not disclosed as to how the ownership of the suit land has been recorded in the name of 'Gram Sabha Gaddhe' in revenue records.

9. Considering the above facts, apparently the petitioner has no locus to seek declaration under Section 24(2) of the Act.

10. The petition is dismissed. All pending application(s) also stand disposed of.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

JULY 17, 2017/sa

भारतमेव जयते