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

DECIDED ON : 17TH AUGUST, 2017

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W.P.(C) 899/2015 & CM APPL. 1579/2015

VINOD KUMAR GARG

..... Petitioner

Through : Mr.Vikram Niles Goyal, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through : 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. The petitioner claims himself to be recorded owner of the land bearing Khasra No.1447 Min (2-3) measuring 2 bighas and 3 biswas situated in the Revenue Estate of Village Malik Pur Kohi @ Rang Puri, District South-West Delhi (hereinafter referred to as 'suit land'). The petitioner's claim is that acquisition of suit land has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

2. A notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 27.06.1996; it included the suit land. A declaration was issued under Section 6 of the Land Acquisition Act,

1894 (old Act) on 03.03.1997. The award bearing No.3/98-99 dated 26.02.1999 was made by the Land Acquisition Collector.

3. It is averred that the petitioner moved this Court for quashing of the notification vide W.P.No.3371/1997 titled as Vinod Kumar Garg and ors vs. Union of India and ors. It was decided and disposed of vide order dated 02.05.2013 laying down that except to the extent that the land already utilized for construction of flyover and slip-road would be excluded from the result of the quashing of the notifications.

4. The petitioner avers that pursuant to the award, no compensation has been paid or tendered by the respondents. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since five year period indicated in Section 24(2) of the Act has ended.

5. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Para (13) :

“13. That without prejudice to the aforesaid plea, it is humbly submitted that as regards status of possession of the subject land, it is humbly submitted that the same could not be taken due to interim stay / status quo order passed by this Hon’ble Court. So far as payment of compensation is concerned, the same could not be paid for want of possession due to interim order and due to which the compensation amount was not sent by requisitioning authority i.e. PWD – the beneficiary of the acquisition to the answering respondents.”

6. The Division Bench of this Court in W.P.(C)No.2299/2002 tilted *Santosh Singh & Ors.vs.UOI & Ors*, decided on 13.11.2014,

held after overall consideration of the provisions of Section 19, 24(2) and Section 69, of the Act that the situation where interim orders were made by the court too would fall within the ambit of Section 24(2). In *Santosh Singh & Ors* (Supra) it was held as follows:

“A close analysis of the above provisions would reveal that Section 19 enables the acquisition process by the appropriate Government issuing a declaration, Section 19 (6) is an important exception in that it imposes a limitation on the power itself (i.e limitation for making declaration). In case the time limit is not adhered to, the acquisition lapses. The proviso to Section 19 (6) recognizes that sometime Court intervention by interim orders impede the appropriate Government from issuing declarations. Section 69 (2) enables increased compensation; yet, the explanation provides that if the landowner secures an interim order, the period spent in litigation, particularly when the interim order subsists, cannot be given benefit to him while calculating interest. Thus, limitation of power freshly conferred or created by the Act does not follow a uniform pattern. The object of the provision in question defines how the allusion to interim orders of court are dealt with. However, Section 24 (2) is a special provision that but for its enactment, would have resulted in the operation of the General Clauses Act, 1897 in that all action taken under the old law would have been preserved. It therefore had to be construed in the context of the old enactment which clearly contemplated exclusion of time at the different stages when interim orders subsisted (i.e to make declaration after preliminary notification and also extended period for making the award). These perspectives are indicative of a contrary interpretation. However, this Court notices that the ruling of the Supreme Court on this aspect is decisive; it consequently binds it.”

7. It is evident that neither possession of the suit land was taken over nor any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s)/ petitioner.

8. As the respondents have not denied that the compensation of the suit land has not been paid and its possession has not been taken, the petitioner is entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra No.1447 Min (2-3) to the extent of petitioner's share measuring 2 bighas and 3 biswas vide award No.3/98-99 dated 26.02.1999 is deemed to have lapsed by virtue of Section 24(2) of the Act.

9. The writ petition is allowed in the above terms. Pending application also stands disposed of.

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

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 17, 2017 / tr