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

% *Date of Judgment: 01st November, 2017*

+ **W.P. (C.) No.1305/2015**

KRISHAN KUMAR & ANR Petitioners
Through Mr. Anuj Kumar Garg, Advocate
versus

UNION OF INDIA & ORS Respondents
Through Ms. Jyoti Tyagi, Advocate for
Mr. Yeeshu Jain, Standing Counsel,
for L&B/LAC.
Mr. Arjun Pant, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V.KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction and declaration that the land of the petitioners comprised in Khasra no.155/2 measuring 3 bigha and 12 biswas situated in the revenue estate of village Molarband, New Delhi and the acquisition proceedings be declared as having lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'New Act').
2. Learned counsel for the petitioners submits that the case of the petitioner is fully covered by the decision rendered by the Apex Court in the case of *Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183*. Counsel further submits that a Notification under Section 4 of the Land

Acquisition Act, 1894 with respect to the subject land was issued on 04.04.1964, Section 6 Notification of the Land Acquisition Act, 1894 was issued on 07.12.1966 and an Award was made on 19.10.1981. It is the case of the petitioners that no compensation was tendered in favour of the petitioners. Thus, the acquisition proceedings shall be deemed to have lapsed.

3. Learned counsel for the LAC submits that the possession of the land in question has already been taken, however, the compensation of the land could not be paid to the recorded owners and is lying deposited in the Revenue Deposit(RD) since 30.01.1982.
4. We have heard the learned counsels for the parties. We deem it appropriate to reproduce para 4 of the counter affidavit filed by the LAC, which reads as under:

“4. That it is submitted that the lands of village Molarband were notified vide Notification under section 4 of the Land Acquisition Act dated 4.4.1964 which was followed by Notification under section 6 of the said Act vide Notification dated 7.12.1966. That the then Land Acquisition Collector passed an Award bearing No.1934-D dated 19..10.81 and the possession of the land falling in subject khasra number was taken on 10.04.1997 after preparing Possession Proceeding on the spot, the same was handed over to the beneficiary department i.e. DDA immediately. The compensation of the land under reference however could not be paid to the recorded owners and is lying deposited in RD on 30.1.82. It is submitted that the petitioners are also admitting that the government has taken the actual vacant physical possession of the subject land falling in khasra number 155/2(3-12) as there is no averment in the writ petition regarding having possession of the petitioners. The petitioners have raised grievance of non-payment of compensation only.”

5. The reading of para 4 above would show that the compensation with respect to the land in question was not tendered to the petitioners but deposited in the Revenue Deposit.
6. In the case of ***Pune Municipal Corporation & Anr.***(*supra*), in para 17 it was 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 31(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”.

7. Relying on the law laid down to the facts of the present case, we are of the view that the amount of compensation was not tendered to the petitioners in accordance with law.
8. Resultantly, the petitioners must succeed only to the extent of payment of compensation as per the Act of 2013. We make it clear that since the possession of the land has been taken over on 10.04.1997 and put to use, the petitioners, as prayed, would be entitled to compensation which will be paid within a period of not later than one year.
9. The writ petition stands disposed of. No orders as to costs.

G.S.SISTANI, J.

V.KAMESWAR RAO, J.

NOVEMBER 01, 2017
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