

\$~33 to 35 & 37 to 39

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

+ **W.P.(C) 1173/2017 & CM APPL. 5331/17**

JAGBIR Petitioner

versus

GOVT OF NCT OF DELHI AND ORS Respondents

+ **W.P.(C) 1174/2017 & CM APPL. 5332/17**

KHAYALWATI Petitioner

versus

GOVT OF NCT OF DELHI & ORS. Respondents

+ **W.P.(C) 1199/2017 & CM APPL. 5412/17**

SMT.SURESH Petitioner

versus

GOVT OF NCT OF DELHI & ORS. Respondents

+ **W.P.(C) 1201/2017 & CM APPL. 5414/17**

JAYBIR Petitioner

versus

GOVT OF NCT OF DELHI & ORS. Respondents

+ **W.P.(C) 1202/2017 & CM APPL. 5415/17**

KARAMPAL Petitioner

versus

GOVT OF NCT OF DELHI AND ORS Respondents

+ **W.P.(C) 1203/2017 & CM APPL. 5416/17**

RAMPAL Petitioner

versus

GOVT OF NCT OF DELHI & ORS. Respondents

Through : Mr.Lalit K.Rawal, Advocate for the petitioners.

Mr.Pawan Mathur, Advocate for DDA in I-33, 37 & 38.

Mr.Yeeshu Jain, Standing Counsel with Ms.Jyoti Tyagi,
Advocate for L&B/LAC in I-33 to 35 & 37 to 39.

Mr.Arjun Pant, Advocate for DDA in I-34 & 35.

Mr.Sanjeev Sabharwal, Standing Counsel with Ms.Ridhi
Suman, Advocate for DDA in I-36.

Mr.Arun Birbal & Mr.Sanjay Singh, Advs. for DDA in I-39.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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01.08.2017

1. These writ petitions were independently heard but a common order is made for the convenience since the facts are common.
2. In all these cases, the petitioners claim a direction / declaration that acquisition in respect of land in Khasra No.80(04-02) Village Khajuri Khas, Shahdara, Delhi (hereinafter referred to as 'suit lands') has lapsed by operation 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').
3. The disputed facts are that the suit lands along with several others were notified for acquisition under Section 4 of the Land Acquisition Act, 1894 (old Act) on 23.06.1989; a declaration under Section 6 of the said Act was issued on 20.06.1990. These proceedings culminated in an award published on 19.06.1992 which

assessed the lands to compensation – including the suit lands. The petitioners are owners / sons of the late owners of the suit lands – in some cases they are grand-sons of the original land owner - Ram Chander.

4. The Land Acquisition Collector representing the Govt. of NCT of Delhi states *inter alia* in the counter-affidavit as follows :

“6. That the present writ petition is liable to be dismissed as the petitioner herself has annexed the copy of possession proceeding dated 17.9.2008 and admitted that symbolic possession was taken by the Government however if the petitioner was aggrieved with the possession proceeding dated 17.9.2008 and mutation thereto in the name of the Government, the petitioner/ recorded owner would have taken appropriate steps at the appropriate stage while challenging the acquisition proceedings and the mutation thereto. It is submitted that having taken the actual vacant physical possession of the subject vide possession proceeding, stated supra, the land vests with the Government free absolutely from all encumbrances under section 16 of Land Acquisition Act, 1894.

7. 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 the acquisition of the lands falling in village Khajuri

Khas. That an Award No. 11/92-93 dated 19.6.1992 was passed and the actual vacant physical possession of the subject land falling in khasra number 80 (4-02) (out of which petitioners have claimed 1/30th share) was taken on 17.9.2008 on the spot and handed over to the DDA after preparing possession proceeding on the spot. The

recorded owner/s appears to have never come forward to claim any compensation nor any such application or grievance appears to have been made regarding non-payment of compensation hence the same appears to have been lying unpaid as per report in NakshaMuntazamin.”

5. It is quite apparent from the above statement of the respondents that the compensation was not paid or tendered in accordance with law as is understood in such cases (referred *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183). As a result, it is hereby declared that the impugned acquisition of the suit lands falling in Khasra No.80(04-02) Village Khajuri Khas, Shahdara, Delhi is deemed to have lapsed by virtue of Section 24(2) of the Act to the extent of share of the petitioners therein. The writ petitions are allowed in the above terms. Pending applications also stand disposed of.

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 01, 2017 / tr