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

DECIDED ON : AUGUST 16, 2017

+ **W.P.(C) 1295/2017 & C.M. APPL.5948/2017**

BAL KISHAN

..... Petitioner

Through : Sh. M. Amanullah, Sh. Misbah
Bin Tarique and Ms. Shabeena Anjum,
Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through : Sh. 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. This matter was originally listed on 14.08.2017. Since 14.08.2017 was declared a Court holiday, this matter is listed today.
2. Learned counsel for the Govt. of NCT of Delhi through LAC seeks liberty to place on record the counter-affidavit. Liberty granted. Counter-affidavit is taken on record.
3. The petitioner claims himself to be recorded owner of the land bearing Khasra No.446 admeasuring 645 sq.yd. out of total land measuring 4 bighas and 9 biswas situated in the Revenue Estate of

Village Jasola, New Delhi (hereinafter referred to as 'suit land') by virtue of assignment sale deed dated 20.12.2005. 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').

4. The petitioner claims that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 23.06.1989; it included the suit land. A declaration was issued under Section 6 on 22.06.1990. The award bearing No.21/92-93 dated 18.06.1992 was made by the Land Acquisition Collector.

5. The petitioner avers that pursuant to the award neither possession of the suit land was taken over by the respondents nor any compensation in respect thereof was ever paid or tendered. 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.

6. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Para (6) :

"6. That it is submitted that the lands of village Jasola were notified vide Notification under Section 4 of the Land Acquisition Act dated 23.6.1989 which was followed by Notification under Section 6 of the said Act vide Notification dated 22.6.1989. That the then Land Acquisition Collector passed an Award No.21/92-93 dated 18.6.92 and the possession of the subject land falling in Khasra number 446 measuring (3-07) was

taken on 19.01.2006 besides other lands 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 owner as per NM as the recorded owner who never turned up to claim the same primarily due to the reasons that he executed Assignment Deed in favor of the petitioner and collected money from the petitioner. The Statement 'A' is not available."

7. It is evident that though the possession of the suit land was taken over and handed over by the respondents to the beneficiary department i.e. DDA, however, its compensation was never offered or paid to the recorded owners.

8. Leaned counsel for the respondents urged that the petitioner has no *locus* to file the instant petition as he is not the recorded owner in the revenue record. The submission is devoid of any force. Registered assignment deed dated 03.10.2005 (Annexure 'P1', page 35) is on record. It has been executed in favour of the petitioner and his brother – Rajinder Singh by Shiv Lal, Bhagwat and Mool Chand sons of late Sh.Siri Ram @ Bholu. Revenue record reveals that the petitioner is son of Bhagwat Swarup – co-owner of the suit land. Apparently, the assignment deed is among the family members. It specifically records about the acquisition of the suit land by award No.21/92-93. It further provides right to the petitioner to claim compensation for the acquisition of the land. Needless to say that the petitioner is a 'person interested' to claim compensation. It is not the

respondents' case that the compensation for the suit land was paid or tendered either to the petitioner or his predecessor-in-interest.

9. Since the compensation for the acquisition of the suit land has not offered or paid to the petitioner, he is entitled to the declaration sought under Section 24(2) of the Act. Accordingly, it is held that acquisition of the suit land bearing Khasra No.446 admeasuring 645 sq.yd. out of total land measuring 4 bighas and 9 biswas situated in the Revenue Estate of Village Jasola, New Delhi is deemed to have lapsed by virtue of Section 24(2) of the Act.

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

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

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 16, 2017 / tr