

\$~4

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : 17TH AUGUST , 2017

+

W.P.(C) 2301/2014 & CM APPL. 4829/2014

MANHOR LAL & ORS. Petitioners

Through : Mr.N.S.Vasisht, Advocate with
Mr.Vishal Singh, Ms.Jyoti Kataria Bajaj &
Mr.M.P.Bhargava, Advocates.

Versus

UNION OF INDIA & ORS. Respondents

Through : Mr.Ruchir Mishra, Advocate with
Mr.Mukesh K.Tiwari, Advocate for UOI.
Mr.Sanjay K.Pathak, Advocate with Ms.Koumudi
Kiran Pathak, Mr.Sunil K.Jha & Mr.Kushal Raj
Tater, Advocate for LAC/L&B.
Mr.Arun Birbal & Mr.Sanjay Singh, Advocates for
DDA.
Mr.Yeeshu Jain, Standing Counsel with Ms.Jyoti
Tyagi, Advocate for GNCTD.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

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

1. The petitioners claim themselves to be recorded owners of the land bearing Khasra Nos.1438/1 (2-0), 1438/2 (2-16), 1443 (4-16), 1445 (4-16) & 1447 (2-11) admeasuring 16 bighas and 19 biswas situated in the Revenue Estate of Village Malikpur Kohi @ Rangpuri, Tehsil Mehrauli, NCT of Delhi (hereinafter referred to as 'suit land'). The petitioners' 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 read with Section 17(1) & (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.03/98-99 was made by the Land Acquisition Collector.

3. It is averred that W.P.(C) No. 1953/1997 titled Vasant Kunj Enclave Housing Welfare Society and ors. vs. UOI and ors. was filed before this Court for quashing of the notifications under Section 4 read with Sections 17(1) and 17(4) of the old Act and declaration issued under Section 6 of the old Act. Notification under Section 6 of the old Act was quashed by an order dated 23.03.2007. SLP preferred by the respondent before the Supreme Court resulted in dismissal. It is further averred that by the orders dated 28.04.2006 and 23.03.2007, Sections 6 notification and quashing proceedings under the old Act were quashed. However, it was observed that the land already utilized for construction of flyover and slip-road would be excluded from the result of the quashing of the notification.

4. The petitioners aver 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.

5. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Para (8) :

“8. That it is submitted that the physical possession of the lands under reference was taken on 31.12.2013 as the Possession Report was made on the spot in the presence of the various officials of the various departments and was handed over to the PWD on the spot. It is submitted that

however the compensation has yet to be paid to its respective recorded owners and / or the petitioners, as case may be as the same has not been received from the requisitioning department i.e. PWD.”

6. It is evident that compensation for acquisition of the suit land was not tendered or paid to the recorded owner(s)/ petitioners. Petitioners’ plea is being considered / restricted only for consideration under Section 24(2) of the Act.

7. As the respondents have not denied that the compensation of the suit land has not been paid, in the present case, the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra Nos.1438/1 (2-0), 1438/2 (2-16), 1443 (4-16), 1445 (4-16) & 1447 (2-11) to the extent of petitioners’ share admeasuring 16 bighas and 19 biswas vide award No.03/98-99 is deemed to have lapsed by virtue of Section 24(2) of the Act.

8. 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