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

DECIDED ON : 17th JULY , 2017

+ **W.P.(C) 1719/2016 & CM APPL. 7394/16**
BIJENDER KUMAR AND ORS Petitioners
Through : Mr.M.P.Bhargava, Advocate.
versus
UNION OF INDIA AND ORS Respondents
Through : Mr.Roshan Lal Goel, Advocate with
Ms.Anju Gupta, Advocate for UOI.
Ms.Ruchika Rathi, Advocate for L&B/LAC.
Ms.Beenashan N.Soni, Advocate with Mr.Aakash
Yadav, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

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

1. The petitioners seek declaration under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act'). It is averred that the land measuring 35 bighas 8 biswas comprised in Khasra No. 50/3(4-16), 4(4-09), 5(4-16), 6/2(0-10), 7/1(2-08), 7/2(2-08), 8(4-16), 12/2(2-14), 13(4-07), 50/14(4-04) & 27(0-07), situated in the Revenue Estate of Village Narela, Delhi, (hereinafter referred to as 'suit land') was acquired by an award No.243/86-87 dated 22.09.1986. Notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 30.10.1963; it included the suit land. Declaration under Section 6 of the old Act was

made on 16.01.1969. It is alleged that the petitioners have not been paid or tendered compensation whatsoever. The physical possession of the suit lands has not been taken by the respondents till date. It is further averred that the suit lands is an unauthorized colony by the name of Gautam Vihar Colony, Narela. Gautam Vihar Colony has filed an application for regularization and the Govt. of NCT of Delhi and the Ministry of Urban Development have issued Provisional Certificate dated 17.09.2008 for regularization of the said colony. The petitioners further claim themselves to be owners in actual physical possession of the suit lands.

2. In the counter-affidavit, filed by LAC on behalf of the appropriate Government, it is claimed that the physical possession of the suit lands has since been taken on 23.09.1986. The recorded owners of the suit lands were Raghunath s/o Daya Ram having 1/3rd share, Chotan s/o Daya Ram having 1/3rd share, Rajesh Kumar s/o Jiwan Lal having 1/12th share, Rakesh Kumar s/o Jiwan Lal having 1/12th share, Naresh Kumar s/o Jiwan Lal having 1/12th share and Arvind Kumar s/o Jiwan Lal having 1/12th share in the suit lands. None of the petitioners except petitioner No.2 was the recorded owner of the suit lands. It was further claimed that the compensation amount under Sections 30 & 31 of the Land Acquisition Act was deposited in the Court of learned Addl. District Judge vide cheque No. 569156 dated 12.05.2005 to the tune of ₹12,30,270/-.

3. On perusal of the contents of the affidavit, it reveals that physical possession of the suit lands has since been taken. Regarding compensation, there is specific averment that notices were sent to the

recorded owners but there was no response from any of the recorded owners or the petitioners. The compensation was deposited in the Court of learned Addl. District Judge in 2005. None of the petitioners has approached the Court to claim compensation. Para (7) of the counter-affidavit states :

“7. That it is submitted that as per the Revenue Record available before the answering Respondent No.5, the recorded owners are Raghunath s/o Daya Ram having 1/3rd share, Chotan s/o Daya Ram having 1/3rd share, Rajesh Kumar s/o Jiwan Lal having 1/12th share, Rakesh Kumar s/o Jiwan Lal having 1/12th share, Naresh Kumar s/o Jiwan Lal having 1/12th share and Arvind Kumar s/o Jiwan Lal having 1/12th share in Khasra No. 50/3(4-16), 4(4-09), 5(4-16), 6/2(0-10), 7/1(2-08), 7/2(2-08), 8(4-16), 12/2(2-14), 13(4-07), 50/14(4-04) & 27(0-07) comprising 24 Bighas 10 Biswas in the Revenue Estate of Village Narela. That, none of the Petitioners are the recorded owners of the subjected land except the Petitioner No.2.

4. The Respondent No.4/ LAC in the counter-affidavit Para (9) has mentioned that :

“.....It is submitted that the appropriate notices were sent to recorded owners, and in the absence of any response from the recorded owners and or any response from any of the Petitioners, the answering Respondent has deposited the compensation to the Court. It is further submitted that the compensation was deposited in 2005, since then none of the Petitioners had approached to the Court of the ADJ.”

5. The petitioners have not denied if the compensation was not offered or tendered to the recorded owners / interested persons. They have not revealed if they had approached the Court of learned Addl.

District Judge any time to get the compensation. Inordinate delay of more than ten years in filing the present petition has not been explained. No explanation has come forward as to why the petitioners did not opt to get compensation deposited in the Court of learned Addl. District Judge for long more than ten years.

6. Issuance of Provisional Certificate to the Gautam Vihar Colony, Narela is inconsequential. It is not the petitioners' case that the colony has since been regularized.

7. In the light of above discussion, the petition is devoid of merits and it is dismissed.

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

**S. RAVINDRA BHAT
(JUDGE)**

JULY 17, 2017 / tr