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

+ W.P.(C) 1754/2015 & CM No.3149/2015

DAYANAND

..... Petitioner

Through: Mr. Vishal Maan, Adv.

versus

GNCT OF DELHI AND ORS

..... Respondents

Through: Mr. Sanjay Kumar Pathak with
Mrs. K. Kaomudi Kiran Pathak, Mr. Sunil Kumar
Jha & Mr. Kushal Raj Tater, Adv. for R-1 & 2.
Mr. Himanshu Bajaj, Addl. Standing Counsel,
DDA with Ms. Saakshi Agrawal, Adv. for
R-3/DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

12.09.2017

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1. The petitioner claims a direction that the suit lands bearing Khasra No. 115/1 (1-00), total admeasuring 1 bigha situated in the revenue estate of village Nasirpur, New Delhi are free from acquisition in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as "the Act").

2. The land in the present case including the suit lands was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 on

02.05.2006; the notification under Section 6 was issued on 05.02.2007. The Land Acquisition Collector (LAC) considered all the relevant materials and made award on 30.06.2008.

3. In its counter affidavit, the Land Acquisition Collector (LAC) states as follows:-

“5. That the petitioner has not come to this Hon’ble Court with clean hands and are guilty of suppressio varisuggestio falsi as the petitioner has not disclosed material facts before this Hon’ble Court and thus, the petitioners are not entitled to any relief much less any discretionary relief from this Hon’ble Court. The petitioners have falsely claimed that possession of the subject land has not been taken. They have also not stated that the compensation amount was sent to revenue deposit. As per the possession proceedings dated 13.04.2009, out of total land comprised in Khasra No. 115 (1-0) possession of 19 biswa was taken but possession of remaining 01 biswa could not be taken due to built up. It is further submitted that the petitioner was issued notice under section 12(2) of the LA Act 1894 for collecting compensation amount vide registered post No. 4065 dated 27.02.2009 and when he did not come to collect the compensation, it was sent to Revenue Deposit.

8. That as regards possession, it is humbly submitted that as per possession proceeding out of total land measuring 1 bigha comprised in Khasra No. 115/1, possession of 19 biswa was taken on 13.04.2009 but possession of remaining 1 biswa could not be taken due to built up. As regards compensation, it is humbly submitted that the petitioner was sent notice under section 12(2) of the Land Acquisition Act, 1894 vide registered post No. 4065 dated 27.02.2009 but when the petitioner did not come for collecting compensation amount, it was deposited in Revenue Deposit.”

4. From the above, it is clear that even though the respondent No.2/LAC claims that possession was taken in respect of the major portion of the land

i.e. 19 biswa, there is no categorical statement that payment of compensation was made in accordance with the law declared to be applicable i.e. in *Pune Municipal Corp. & Anr. v. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183. Accordingly, the acquisition is deemed to have lapsed since the compensation was not paid in time during the preceding five years before the coming into force of the Act. A declaration is therefore issued that acquisition of the said lands has lapsed by reason of Section 24(2) of the Act.

The writ petition is allowed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 12, 2017

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