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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3643/2014, C.M. APPL.7403/2014**
HARI PRAKASH & ORS Petitioners

Through: Dr. Surat Singh and Sh. Saurabh
Agarwal, Advocates.

versus

UNION OF INDIA & ORS Respondents
Through : Sh. Yeeshu Jain, Standing Counsel with
Sh. Siddharth Panda and Ms. Jyoti Tyagi,
Advocates, for L&B/LAC.
Sh. Abhishek Pundir, Advocate, for DSIIDC.
Sh. Naushad Ahmed Khan, ASC (Civil) with Sh.
Manzar Anis, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE S.P.GARG

% **ORDER**
11.07.2017

1. The petitioners challenge acquisition of their land under Award dated 30.09.2002 made by the Govt. of NCT of Delhi [hereafter "GNCTD"]. They also contend that in view of the provisions of Section 24(2) of *the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* [hereafter "the 2013 Act"], the acquisition is deemed to have lapsed.
2. The suit lands, part of Khasra Nos. 25(4-16), 6(4-16), 15(4-16) & 15(4-16) in the revenue estate of Village Holambi Kalan, Delhi were notified for acquisition on 19.03.2001 to the extent of 340

bighas 13 biswas. The public purpose mentioned was *rehabilitation of JJ clusters*.

3. The Appropriate Government invoked the ‘urgency clause’ and consequently through combined Notification under Sections 6 and 17(1) of the Land Acquisition Act, 1894 [hereafter “the 1894 Act”] notified the land on 04.04.2001. The Award was announced thereafter on 30.09.2002.

4. The petitioners approached this Court on 16.09.2013, contending that the invocation of the urgency clause was *per se* illegal as no development has taken place on the land.

5. During the pendency of proceedings, the 2013 Act was enacted. The petitioners have sought to take advantage of the said Act.

6. The State, i.e. GNCTD resists these proceedings contending firstly that the challenge to the urgency clause and acquisition is hopelessly barred by time, i.e. by more than 12 years. As to the contention with respect to the applicability of Section 24(2) of the 2013 Act, it is stated that the petitioners have suppressed important material circumstances such as the fact that the possession of the land was taken-over, prior to which, compensation was assessed. It is furthermore stated that the petitioners have sought for enhancement of compensation by approaching the reference court which by its award dated 20.03.2005 granted the relief claimed.

7. As far as the petitioner’s main challenge to the acquisition goes, the Court is of the opinion that the relief sought cannot be granted. The petition has to fail to that extent. Concededly, the acquisition

took place in 2001 and the award was made in 2002. The petitioners even disclosed that they sought for enhancement after collection of compensation. In these circumstances, they are precluded both by their own conduct as well as the delay in challenging the acquisition. As far as the other submission with respect to applicability of Section 24(2) of the 2013 Act is concerned, interestingly, the petition is bereft of particulars with respect to the suit lands. The relief clause does not advert to the extent of land owned by the petitioners; it does not even disclose the particulars. It is only in the list of dates that the extent of land has been mentioned. The materials on record disclose that physical possession of land of more than 340 bighas was taken over on 19.03.2007.

8. During the course of hearing, it is contended by Dr. Surat Singh that the petitioner is in possession of only part of the land, i.e. 2-08 bighas. He also relied upon the judgment in *Velaxan Kumar v. Union of India* AIR 2015 SC 1462 that unless physical possession of the entire extent of land is taken over, Section 24(2) of the 2013 Act would operate.

9. The Court is of the opinion that in the facts of this case, the petitioners' contention with respect to the part of the physical possession being with him cannot be countenanced. The possession proceedings clearly show that the entire lands were taken over, the reliance on *khasra girdawari* to say that some portion of the land was under his cultivation, in these circumstances, is irrelevant since he not

only surrendered the land – a precondition for claiming compensation and a necessary condition under Section 17 of the 1894 Act, but also sought reference; all these facts were suppressed from the petition.

10. After the submissions were made, Dr. Surat Singh, learned counsel sought liberty, on instructions, to withdraw the petition. However, the Court is of the opinion that given the entire nature of the facts and considering the material circumstances that facts were withheld from Court, the liberty ought not be granted.

11. The writ petition is accordingly dismissed along with the pending application.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 11, 2017/ajk