

\$~16

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

DECIDED ON : 13th JULY , 2017

+

W.P.(C) 2481/2016 & CM APPL. 10848/2016

RAJIV SUD

..... Petitioner

Through : Mr.B.S.Maan, Advocate with
Mr.Shitiz Agnihotri, Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through : Mr.Sanjeev Sabharwal, Standing
Counsel for DDA.

Ms.Ruchika Rathi, 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. In the instant writ petition, the petitioner claims himself to be recorded owner of the land of Khasra No.739, Khata No.34/1293, admeasuring 2016 sq.yards in the Revenue Estate of Village Tuglakabad, New Delhi. The petitioner's claim is that acquisition of his lands (hereinafter referred to as '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. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 23.01.1965; it included the suit land. A declaration was issued under Section 6 on

13.01.1969. The award bearing No.50A/Suppl/1969-1970 dated 04.11.1981 was made by the Land Acquisition Collector.

3. The petitioner avers that pursuant to the award, possession of the suit land was taken over by the respondents on 23.11.1981 and 02.09.2006, however, compensation in respect thereof was never 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.

4. The respondent No.1 through LAC, in its counter-affidavit, significantly makes the following admission in Para (8) :

"8. It is submitted that the status of the compensation of the subject land could not be paid to the recorded landowner as the aforesaid land was the disputed land. Hence, the Respondents could not ascertain the compensation of the aforesaid land neither deposited in the Revenue Department."

5. It is evident that the counter-affidavit does not reveal if any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s).

6. The Supreme Court in Pune Municipal Corporation case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. That decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the concerned amount and make it available to the land owner, i.e. by way

of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

7. As the respondents have not denied that the compensation of the land in Khasra No.739, Khata No.34/1293 has not been paid, in the present case, the petitioner is entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra No.739, Khata No.34/1293 vide award No.50A/Suppl/1969-1970 dated 04.11.1981 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)**

JULY 13, 2017 / tr