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

% Judgement delivered on: 27th April, 2017

+ **W.P.(C) 4352/2014 & CM Nos.8725/2014, 27479/2016,
34900/2016, 36290/2016**

KANTA RANI CHHABRA

..... Petitioner

Through : Ms.Esha Mazumdar, Mr.Setu Niket,
& Mr.Nishant Verma, Advocates.

versus

LT. GOVERNOR OF DELHI AND ORS

..... Respondents

Through : Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocates for
L&B/LAC.
Mr.Pawan Mathur, Standing Counsel
for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J. (Oral)

1. The petitioner claims herself to be an owner in possession of the land falling in Khasra No.55/9 and measuring 650 square yards in village Prehaldpur Bangar, Delhi – 110042.

2. It is alleged that the respondents had notified the land in Khasra No.55/9 (4-16) vide notification bearing No.F10(29)/96/L&B/LA /11394 dated 27.10.1999, under Section 4 of the Land Acquisition

Act, 1894, for the acquisition of the aforesaid land for the public purpose, i.e. for the Rohini Residential Scheme. The declaration under Section 6 along with Section 7 & 17 of the Act was made and then an award bearing No.29/2002-03 dated 01.11.2002 was passed.

3. It is alleged by the petitioner that immediately after the declaration under Section 6 of the Act was made, the petitioner approached this Court vide Writ Petition (C) No.2199/2000 and though such petition was dismissed on 09.07.2007, but then the Supreme Court vide its order dated 27.04.2012 in CA (Civil) No.4674/2007 quashed the notification issued under Section 6 of the Act. The respondents were directed to invite objections under Section 5A of the Act, pursuant to the notification dated 27.10.1999 issued under Section 4. Later, yet again notification under Section 6 of the Act was issued on 20.03.2013.

4. It is however alleged by the petitioner that she is in possession of 650 square yards of land in Khasra No.55/9 where she was running a factory under the name and style of M/s K.C. Industries for manufacturing candles and compound wax, but it was to be shut down pursuant to the directions of the Supreme Court in *M.C.Mehta vs. Union of India* AIR 1988 SC 1115. She has filed various photographs to show that she is still in possession of the suit property.

5. In the counter affidavit filed on behalf of respondent No.3, it is alleged that pursuant to the Award No.14/2002-03 dated 08.07.2002, the compensation was paid to the petitioner vide cheque bearing

No.568998 dated 23.04.2005 to the tune of ₹4,27,782/- after taking possession of the land on 09.05.2000. It is alleged that if the petitioner has again entered into possession, it would be unauthorised and she would be an unlawful encroacher on government land.

6. We have perused the record and heard the learned counsel.

7. The petitioner herself in para No.16 of the writ petition has admitted that she has received the compensation around the year 2004 though she is ready and willing to refund it with interest, if directed. Further, along with the counter affidavit, the respondents have filed the possession proceedings dated 09.05.2000 wherein the entire land in Khasra No.55/9 (4-16) including the land of the petitioner was taken as per law. The petitioner rather filed an application before the court of the learned ADJ, Delhi for payment of compensation for her one bigha of land in Khasra No.55/9, per para No.2 of the said application annexed at page No.71 of the record, wherein she admitted that the possession of her land was taken over and there was no one except her to receive the compensation. She had prayed for release of such compensation in her favour. Curiously, this application is bereft of any assertion that she is still in possession of a part of land measuring 650 square yards, in Khasra No.55/9. The receipt for compensation, duly signed by the petitioner for the aforesaid sum, is also annexed along with the counter affidavit.

8. Thus, considering that the petitioner had received the compensation for her land viz., Khasra No.55/9 (One bigha) along

with other land owners in the year 2004 itself and considering that the possession of her land was taken over in the year 2000, it would not make out any case in her favour to seek a declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. As per respondents, the major portion of Khasra No.55/9 has already been utilised for construction of an 80 meter wide road and that even if the earlier notification under Section 6 of the Act was quashed, it was only to the extent that it invoked the provisions of Section 17(i) and 17 (iv) and that thereafter, objections under Section 5A of the Act were heard and yet again a fresh notification under Section 6 of the Act was issued on 20.03.2013, which is still valid and legal and that once the possession has been taken, the land shall vest in the government free from all encumbrances. Therefore, the question of limitation would not vitiate the acquisition proceedings in respect of the land which has already been vested in the government.

9. On the petitioner's plea qua the mode of taking possession, we may refer to *Delhi Development Authority vs. Sukhbir Singh & Ors* (2016 SCC Online SC 929) wherein the Supreme Court held as under:-

“(iv) If the acquisition is of a large tract of land, it may not be possible for the acquiring/designated authority to take physical possession of each and every parcel of the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of independent witnesses and getting their signatures on such document.

(v) If beneficiary of the acquisition is an agency/instrumentality of the State and 80% of the total compensation is deposited in terms of Section 17(3-A) and substantial portion of the acquired land has been utilised in furtherance of the particular public purpose, then the court may reasonably presume that possession of the acquired land has been taken.” [para 27]

10. Thus, where admittedly the compensation has been received, the possession has been handed over to the appropriate authority and is being utilised for construction of a road, the leftover land, if any, could not be claimed by the petitioner, even if she was adventurous enough to unauthorisedly occupy it or make some illegal construction on it. Hence, the petitioner is not entitled to declaration as prayed for.

11. In view of the above, the petition has no merit. Consequently, the writ petition and pending miscellaneous applications are dismissed.

YOGESH KHANNA, J

S. RAVINDRA BHAT, J

APRIL 27, 2017

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