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

+ W.P.(C) 3953/2014 & CM Nos.7951/2014, 7993/2014, 8765/2014 & 8766/2014

LAXMI NARAIN & ORS Petitioners

Through: Mr. N.S. Dalal with Ms. Toral Banerjee, Advs.

versus

GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Adv. for R-1 & 2.

Mr. Sanjeev Sabharwal, Standing Counsel, DDA.

Ms. Eshita Baruah for Mr. Gaurang Kanth, Adv. for SDMC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

19.07.2017

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1. The petitioners seek a declaration that the acquisition of suit lands being khasra Nos.219 and 220 situated in the revenue estate of Village Saidulajab, New Delhi has lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The facts in brief are that a notification was issued under Section 4 of the Land Acquisition Act, 1894 (hereafter referred as 'the Act') followed by

a declaration under Section 6 of the Act, on 25.11.1980. The award in respect of the suit lands was made by award No.13/87-88. The petitioners contend that neither possession of the suit lands was taken nor was compensation paid in accordance with the award and that since the period of 5 years has elapsed, the provision of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 applies.

3. The respondents dispute the petitioners' contentions and urge that the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 do not apply. The Government of NCT however states as follows in its counter affidavit:-

“6. That it is submitted that the lands of village Saidullajab were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 25.11.1980 which was followed by the Notification under section 6 of the Act. The Award was also passed vide Award No.13/87-88 and the possession of the lands were also taken on 17.7.1987 and further handed over to the requisition agency i.e. DDA on the spot, the very same day after preparing necessary documents such as Possession Proceedings.

7. It is submitted that after the possession was taken of the lands under the said Award from the petitioners herein, the acquisition proceedings became complete, final and binding as the petitioners thereafter never challenged the same before any Court of law. It is further submitted that admittedly the petitioners and/or their predecessor-in-interest never applied for release of compensation, the answering respondent has duly deposited the compensation with the Reference Court vide

cheque No.456945 dated 20.12.2013 amounting to ₹16673891.68 on 30.12.2013. The copy of the deposit made on 30.12.2013 is annexed herewith as Annexure R-1.”

4. As far as possession is concerned, the DDA which has also followed the counter affidavit filed by the NCT of Delhi relies upon the proceedings carried out on 17.07.1987/18.07.1987, disclosing that the physical possession of the entire acquired lands i.e. 708 bigha – 11 biswa in Village Saidulajab was taken over.

5. The petitioners dispute the question of taking over of possession and contend that the document cannot be relied upon as it evidences only taking of possession.

6. The admission by the Government of NCT of Delhi that compensation was not paid and rather an attempt was made to deposit it in Court and that eventually it was deposited in this Court on 30.12.2013, reinforces the petitioners’ argument that the amounts were not tendered to them in accordance with law. Clearly, therefore the petitioners are entitled to the declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. So far as the question of possession goes, having regard to the declaration of law by the Supreme Court in *Delhi Development Authority v. Sukhbir Singh* 2016 SCC Online SC 929, this Court is of the opinion that the possession proceedings have to be held to be in order. In other words, the final possession of the lands is deemed to have been taken over on 17.07.1987.

7. In view of the fact that compensation could not be tendered to the petitioners within the 5 year period contemplated by Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, they are entitled to the declaration prayed for.

The writ petition is therefore allowed in the above terms.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 19, 2017

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