

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

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+ *Date of decision: 29th November, 2017*
W.P.(C) 2906/2016

CHATAR SINGH AND ORS. Petitioners

Through: Mr. Arun Kumar Kaushik, Adv.

versus

UNION OF INDIA AND ORS Respondents

Through: Mr. Sanjay Kumar Pathak, Adv. Mr.
Sunil Kumar Jha and Mr. Kushal Raj
Tater, Advs. for LAC/L&B/GNCTD
Mr. Sanjeev Sabharwal, Standing
Counsel for DDA

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. The petitioners have filed the present writ petition under Article 226 of the Constitution of India seeking a declaration that the entire acquisition proceedings with respect to 9 Bigha 03 biswas of land to the extent of their respective joint share i.e. 1/3 share, comprised in Khasra Nos. 41/1(05-10), 43(03-03), 44/1(0-10), situated in the revenue estate of village Behlolpur, Tehsil Defence Colony, District South-East, New Delhi as having lapsed as the compensation pertaining to the land in question has not been paid.

2. Learned counsel for the petitioners relies on the averments made in the counter-affidavit filed by the LAC to show that the compensation has not been paid and no details are mentioned

regarding payment in the Naksha Mutzamin, petitioners also prays for compensation as per the New Act for the reason that physical possession of the land has been taken and the land has been put to use by the DDA.

3. Learned counsel for the LAC also relies on para 8 of the counter-affidavit in support of his submission that possession of the land has been taken and it is submitted that it is unclear as to whether the compensation has been paid or not.

4. We have heard learned counsel for the parties.

5. It is not in dispute that a notification under Section 4 of the Land Acquisition Act was issued on 13th November, 1959. Section 6 notification was issued on 8th December, 1966 and an Award was made on 20th October, 1982 being Award No. 44/1982-83. It is also not in dispute that the possession of the subject land has been taken.

6. Para 8 of the counter-affidavit filed by the LAC reads as under:

“8. That as regards possession and compensation it is humbly submitted that as per possession proceeding report possession of subject land comprised in Khasra No. 41/1(5-10), 43(3-03) and 44/1 (00-10) was taken on 29.4.1985. So far as compensation amount is concerned, it is humbly submitted that in the Naksha Muntzmin compensation details are not mentioned. It is not mentioned whether compensation was paid or not. It is further submitted that Statement “A” is not available in LA Branch and efforts are being made to trace it. As per Naksha Mutzmin Owner at (1) Shumar No. 56, Dalip Singh, S/o, Gajan, Share 1/3. (2) Shumar No. 57, Ghanshyam s/o Jhangra, Share 1/3. (3) Shumar

*No. 58, Bhagwanta s/o Bhura, share 1/9, (4) Shumar
No. 59, Ram Chander s/o Bhure, Share 1/9, (5) Shumar
No. 60, Bhagwana s/o Bhura, Share 1/9 in Khasra No.
43 (03-03), 44/1 (00-10), 41/1 (05-10). ”*

7. Reading of the para 8 of the counter-affidavit would show that the details of compensation regarding the petitioners are not mentioned in the Naksha Mutzamin. As per LAC statement “A” is also not available in the land acquisition branch.

8. Taking into consideration that the Naksha Mutzamin does not show the compensation has been paid to the petitioners, however possession of the land has been taken and put to use by the DDA, the petitioners are entitled to compensation under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The case of the petitioners would be covered by the decision rendered by the Supreme Court of India in the case of ***Pune Municipal Corporation & Anr. V. Harak Chand Misiri Mal Solanki & Ors. (2014) 3 SCC 183.*** While the declaration is issued that the acquisition proceedings stands lapsed, however, as prayed by the petitioners, the petitioners would only be entitled to compensation as per the Act of 2013.

9. Accordingly, the writ petition is disposed of.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 29, 2017/aky