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

% *Date of Judgment: 14th November, 2017*

+ **W.P. (C.) No.2912/2016**

DISCOVER INDIA TOUR (P) LTD & ORS. Petitioners

Through Mr. Prateek Kohli and Ms. Richa
Oberoi, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through Mr. Roshan Lal Goel and Ms. Anju
Gupta, Advocates for UOI.
Ms. Ruchika Rathi, Advocate
for L&B/LAC.
Mr. M.K. Singh, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V.KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. Counter affidavit has not been filed by the LAC. Copy of the counter affidavit has been handed over in Court. The same is taken on record.
2. With the consent of the parties, the present writ petition is set down for final hearing and disposal.
3. This is a petition filed under Article 226 of the Constitution of India by the petitioners. The petitioners claim that the acquisition proceedings pertaining to land measuring 2453 sq. yards forming part of Khasra nos. 657 and 658 respectively situated in the revenue estate of village Neb Sarai, Tehsil Hauz Khas, New Delhi (hereinafter

referred to as 'subject land') has lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'Act').

4. The petitioners claim to be the subsequent purchasers of the land in question. Counsel for the petitioners further submits that the writ petitions arising out of the same Award, have been allowed by orders dated 8th August, 2017 in the case of *Asha Jain & Anr v. Union of India & Ors*, *W.P.(C) No. 2987/2016*. This decision was followed in the case of *Jasjeet Singh Makhija & Anr. v. Union of India & Ors*, *W.P.(C) No. 2920/2016* and *Suman Chhabra v. Union of India & Ors.*, *W.P.(C) No. 2995/2016 dated 21st September, 2017*. Counsel for the petitioners has drawn the attention of the Court to the counter affidavit filed by the LAC, as per which it is admitted that the physical possession of the land in question has not been taken over and further it could not be ascertained whether compensation has been paid or not. Paragraphs 8 and 9 of the counter affidavit read as under:

“8. That in the present case, the possession of the land in question was not taken over. The statement “A” of the Award No.12/87-88 is not traceable. An NCR has also been lodged with the P.S. Neb Sarai bearing LR. No. : 0063/2017 dated 07/02/2017. However as per the Revenue Deposit Register, the total amount of Rs.8,10,28,938/- of Award no. 12/87-88 was deposited in R.D. but the same was later withdrawn vide R.V. No.436 dated 07.05.1993 for the Award No.1/93-94 Village Kakrola, Delhi as per Dy. Secy.(L&B) Letter No.F.19/(145/88-89/L&B/F.A-20392dated 07.07.1992. The compensation as per the Naksha Muntzamin are as under but there is no mention in the Naksha Muntzamin as to whether it was paid or not:

S.No.	Name	Amount
1.	M/s Lakhmi Chand	Rs.294624.60
2.	M/s Lakhmi Chand	Rs.303445.70
3.	M/s Lakhmi Chand	Rs.1489000.99
4.	M/s Laxmi Chand	Rs.1466066.14

9. That it is submitted that the physical possession of the lands under reference could not be taken. It is further submitted that the status of the compensation of the subject land could not be ascertained as the 'Statement A' is untraceable and the answering respondent has already issued a Circular dated 02.03.2016 to re-locate the same. Thus, in the absence of the Statement A, the status of payment of compensation could not be ascertained."

5. In *Asha Jain & Anr.* (supra), an identical claim for relief that the lands were free from acquisition was examined and the following findings were recorded:

"7. Learned counsel for the respondents urged that the petitioners have no locus to seek declaration as the suit land was purchased by them on the basis of General Power of Attorney and Agreement to Sell. The submission is devoid of merits. It is admitted in the counter affidavit that M/s.Laxmichand Bhagaji Limited was the recorded owner of the suit land and it was sold to the petitioners.

8. Record reveals that originally the land forming part of Khasra No. 675 was recorded in the name of M/s. Laxmichand Bhagaji Limited – a non-banking company. Subsequently, several winding up petitions were filed

against it in the High Court of Judicature at Bombay including company petition No. 50/1990, where the official liquidator was appointed. Scheme of Arrangement or Compromise between the company and its depositors was accepted, approved and sanctioned by the Bombay High Court vide its orders dated 24.10.1991 and 28.11.1991. In Company Application No. 298/2001 in Company Petition No. 76/1991, permission was sought to sell the entire land in possession of the company. The Bombay High Court vide its order dated 10.08.2001 granted permission for the sale of the land after receipt of full consideration. Suman Chhabra sole proprietor of M/s. Sukhshanti Associates purchased the suit land and Agreement to Sell dated 02.01.2004 was executed in favour of M/s. Sukhshanti Associates. In terms of the said agreement, M/s. Sukhshanti Associate was authorized to make payment of the consideration and the „committee“ was to execute Agreement to Sell along with irrevocable General Power of Attorney in favour of M/s. Sukhshanti Associates and / its nominee. The petitioners further averred that pursuant to the agreement dated 02.01.2004, the committee executed a separate Agreement to Sell dated 09.05.2005 in favour of the petitioner - Asha Jain wherein Suman Chhabra had made the confirming party. Along with the agreement dated 09.05.2005, General Power of Attorney was executed in her favour and possession certificate was also issued qua the land measuring 93 sq.yds. in Khasra No.675 situated in the village Neb Sarai.

9. The petitioners further aver that the land forming part of Khasra No. 653 (min) was recorded in the name of Chandro Devi (1/3rd in 838 sq.yds.), S.B.Chaudhary (400 sq.yds.), Balwan Singh, Baljeet Singh and Kuldeep Singh (320 sq.yds. collectively). The said land measuring 800 sq.yds. was purchased by Suman Chhabra vide Agreement to Sell

dated 05.06.2000, 07.03.2005 and 05.06.2005, respectively. The same has been transferred in favour of the petitioners vide registered General Power of Attorney dated 09.05.2005 and Agreement to Sell in favour of the petitioner No.1 alongwith possession certificate. These facts have not been controverted by the respondents in the counter-affidavit. Apparently, petitioners are the “persons interested” to claim compensation which was never offered or tendered to them.

10. It is relevant to note that in similar circumstances in W.P.(C) 2988/2016 & 2921/2016, decided on 01.08.2017, similar relief was granted to the petitioners therein.

11. As the respondents have not denied that the compensation of the suit lands has not been paid and its possession has not been taken, the petitioners are entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra No.653 and 675 admeasuring 800 sq.yds. and 93 sq.yds. respectively vide award No.12/87-88 dated 20.05.1987 is deemed to have lapsed by virtue of Section 24(2) of the Act.”

6. Having regard to the fact that the LAC has admitted that possession of the suit land was not taken over and compensation not paid, we are of the view that the petitioners are entitled to a declaration to the extent that the acquisition proceedings stand lapsed by virtue of Section 24(2) of the Act. It is so declared.
7. The writ petition is allowed in above terms. No costs.

CM.APPL 12170/2016 (stay)

8. Interim order dated 06.04.2016 is confirmed.
9. The application stands disposed of.

G.S.SISTANI, J.

V.KAMESWAR RAO, J.

NOVEMBER 14, 2017

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