

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

% Date of decision: 14th November, 2017

+ W.P.(C) 2996/2016, CM No.12578/2016

JATINDER PAL SINGH & ANR.

..... Petitioners

Through: Mr. Prateek Kohli, Adv.
versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Arun Birbal, Adv. with Mr. Sanjay Singh, Adv.
and Mr. Rohan Mehra, Adv. for DDA
Mr. Roshan Lal Goel, Adv. with
Ms. Anju Gupta, Adv. for UOI
Mr. Sanjay Kumar Pathak, Adv.,
Mr. Sunil Kumar Jha and
Mr. Kushal Raj Tater, Adv. for
L&B/LAC/GNCTD

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. The petitioners claim that the acquisition proceedings pertaining to land measuring 1417 sq. yards forming part of khasra no. 657 (min) 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').

2. The petitioners claim to be a subsequent purchaser of the land in question. Counsel for the petitioner 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 petitioner 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 6 and 8 of the counter affidavit read as under:

“6. That as per the record, the land in question i.e., Khasra No.657 min (1417 Sq. Yds.) situated at the revenue estate of village Neb Sarai, New Delhi, informing part of 13 villages were notified under section 4 of Land Acquisition Act on 05.11.1980 followed by declaration under Section 6 of the Land Acquisition Act on 21.05.1985 for Planned Development of Delhi. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interest persons and claims were also filed by the interest persons. The then Land Acquisition Collector passed Award No.12/87-88 dated 20.05.1987 after considering the claims of the claimants.

8. That in the present case, the possession of the land in question was taken over and handed over to the beneficiary department on 05.09.2005, which is also admitted by the petitioners in para no.9 of the writ petition. 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-20392 dated 07.07.1992. As per the Naksha Muntzamin a sum of Rs. 1466066.14 is shown as compensation in the name of M/s Laxmi Chand but there is no mentioned in the Naksha Muntzamin as to whether any payment has been made or not.”

3. 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.”

4. 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 petitioner is entitled to a declaration to the extent that the acquisition proceedings stand lapsed by virtue of Section 24(2) of the Act. The writ petition is allowed in above terms. No costs.

CM No. 12578/2016

The interim order dated 6th April, 2016 is confirmed.

CM stands disposed of.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 14, 2017/aky