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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : 17th JULY , 2017

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W.P.(C) 2989/2016 & CM APPL. 12570/2016

SUNIL JAIN & ANR.

..... Petitioners

Through : Mr.Prateek Kohli, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr.C.M.Goyal, Advocate with

Ms.Meghna Rohatgi, Advocate for UOI.

Mr.Arun Birbal, Advocate with Mr.Sanjay Singh,
Advocate for DDA.

Mr.Siddharth Panda, Advocate for L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

1. Learned counsel for the respondent No.2 – Govt. of NCT of Delhi through LAC seeks liberty to place on record the counter-affidavit. Liberty granted. Counter-affidavit is taken on record.

2. In the instant writ petition, the petitioners claim themselves to be owners on the basis of registered General Power of Attorney executed in their favour along with Agreement to Sell dated 09.03.2005 in respect of land of Khasra No. 670, 673/1 & 673/2 admeasuring 1156 sq.yards situated in the Revenue Estate of Village Neb Sarai, Tehsil Hauz Khas, New Delhi. The petitioners' claim is that acquisition of their lands (hereinafter referred to as 'suit land') has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

3. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 05.11.1980; it included

the suit land. A declaration was issued under Section 6 on 21.05.1985. The award bearing No.12/87-88 dated 20.05.1987 was made by the Land Acquisition Collector.

4. The petitioners aver that pursuant to the award, neither physical possession of the suit land was taken over by the respondents nor any compensation in respect thereof was ever paid or tendered. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since five year period indicated in Section 24(2) of the Act has ended.

5. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, significantly makes the following admission in Para (8) :

“8. That in the present case, the possession of the land in question was not taken over. However, the payment of compensation to the recorded owners could not be ascertained as the statement “A” is not traceable. A circular dated 02.03.16 has been issued to other branches for searching the same. An NCR has also been lodged with the P.S.Neb Sarai bearing LR. No. :0063/2017 dated 07/02/2017. It is humbly requested that the present case may not be decided against the interest of the Govt. till the above documents are traced out. In the present writ petition the petitioner is challenging the acquisition proceeding, which was taken in pursuance to the above mentioned notifications and award, which was never challenged neither by the petitioner nor by the predecessor of the petitioner. Thus the petitioner has not locus to file the present writ petition and seek any relief with respect to the above said khasra numbers. This issue has been settled by the Hon’ble Supreme Court of India in Meera Sahni & Ors. vs. Lt. Governor of Delhi reported in 2008 (9) SCC 177, wherein the Hon’ble Apex Court categorically held that the petitioners being subsequent purchasers of the land in question do not derive any title to the land and cannot challenge the acquisition proceedings.”

6. It is evident that neither possession of the suit lands was taken over nor any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s).

7. The Supreme Court in Pune Municipal Corporation case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. That decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the concerned amount and make it available to the land owner, i.e. by way of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

8. As the respondents have not denied that the compensation of the land in Khasra No. 670, 673/1 & 673/2 has not been paid and its possession has not been taken, in the present case, the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra No. 670, 673/1 & 673/2 vide award No.12/87-88 dated 20.05.1987 is deemed to have lapsed by virtue of Section 24(2) of the Act.

9. The writ petition is allowed in the above terms. Pending application also stands disposed of.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

JULY 17, 2017 / tr