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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
DECIDED ON : AUGUST 08, 2017

+ **W.P.(C) 2987/2016 & CM 12568/2016**

ASHA JAIN & ANR.

..... Petitioners

Through : Mr.Prateek Kohli, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Mr.Vaibhav Agnihotri, Adv. for DDA.

Ms.Ruchika Rathi, Adv. for LAC/L&B.

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 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. The petitioners claim that acquisition of their land bearing Khasra No.653 and 675 admeasuring 800 sq.yds. and 93 sq.yds. respectively situated in the revenue estate of village Neb Sarai, Tehsil Hauz Khas, New Delhi (referred to as 'the 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'). The petitioners claim themselves to be recorded owner of the suit land by virtue of Agreement to Sell and registered General Power of Attorney dated 09.05.2005.
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, states in Paras (12 & 13) :

“12. That the acquisition proceedings initiated by the aforesaid notifications / declarations were challenged by the interested persons by filing various writ petitions wherein interim protection was granted by this Hon’ble Court. The interim protection granted by this Hon’ble Court continued till the disposal of the writ petitions by this Hon’ble High Court when the acquisition proceedings were upheld. It is pertinent to mention here that various rounds of litigation were fought in respect of the above mentioned notifications. The possession of the land could only be taken in 2005, after this Hon’ble Court dismissed the writ petitions and upheld the acquisition proceedings. However, in one set of writ petitions there was difference of opinion and these cases were referred to the third Judge. These cases were decided in favour of the land owners and notification under section 6 and subsequent acquisition proceedings were quashed. In both the sets of cases the aggrieved parties i.e., the land owners and Union of India, went in appeal before the Hon’ble Supreme Court of India. The appeals preferred by the Land Owners appeal were dismissed by the

Hon'ble Supreme Court of India in Om Prakash Versus Govt. of NCT of Delhi & Ors. alongwith other appeals in 2010 reported in 2010 (4) SCC 17, thereby upholding the acquisition proceedings. The appeals filed by the Government were dismissed by the Hon'ble Court on 07.05.2014 in Union of India Versus Shiv Raj & Ors. alongwith other connected appeals.

13. That 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."

6. It is evident that though possession of the suit land has been taken over in 2005, however, its compensation was not paid or tendered to the recorded owners / petitioners.

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.

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

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

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 08, 2017/sa/tr