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

+ W.P.(C) 4904/2014

RAJENDRA PRASAD & ORS.

..... Petitioners

Through: Mr. T.N. Singh with Mr. Vikas K.
Singh, Advs.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for L&B/LAC.
Ms. Mrinalini Sen with Ms. Kritika Gupta, Advs.
for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

25.04.2017

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1. These 91 petitioners seek directions that the land acquired by the respondents by two Notifications dated 27.01.2003 and 23.01.2004 (under Section 4/6 of the Land Acquisition Act, 1894) and in respect of which Award bearing No.15/2005-06 dated 22.08.2005 is made are deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The petitioners are all erstwhile land owners of agricultural land aggregating to 490 bighas, in Village Holambi Kalan. The lands were

notified for the purposes of acquisition, under Section 4 on 27.01.2003; declaration under Section 6 was issued on 23.01.2004. The Collector after considering the materials placed before him and the submissions made, published an Award on 22.08.2005. The petitioners allege that on 18.11.2005, the respondents allegedly, went to site and took paper possession, as is clear from the document placed on the record. They submit that till date they continue to be in actual physical possession of the acquired land. In support of this plea, petitioners rely upon various documents as well as photographs to show that as on date the lands have standing crop.

3. Mr. T.N. Singh, the learned counsel relied upon the judgment of the Supreme Court in *Pune Municipal Corporation & Anr. v. Harakchand Misrilal Solanki & Ors.* (2014) 3 SCC 183 say that unless the acquiring authorities tender the compensation i.e. actually pay it to the land owner and also take over actual physical possession of the acquired lands, if the 5 year period under Section 24(5) after the date of the Award and tendering of compensation has lapsed, the acquisition is deemed to have been rendered void.

4. Learned counsel relied upon Supreme Court rulings i.e., *Prahlad Singh v. Union of India & Ors.* (2011) 5 SCC 386, *Raghubir Singh v. State of Haryana & Ors.* (2012) 1 SCC 792, *Patasi Devi v. State of Haryana* (2012) 9 SCC 503 and *Velaxan Kumar v. Union of India & Ors.* (2015) 4 SCC 325 to say that unless actual physical possession of the lands is taken over by the acquiring body or authority, in law atleast for the purpose of Section 24(2) the lands are deemed not to have been taken possession of. Submitting that in the present case actual physical possession

was never taken and only constructive possession was shown to have been taken, learned counsel submitted that the acquisition is deemed to have been lapsed.

5. The respondents urge that the petitioner does not dispute, rather admits having been paid compensation. They even point out that in the year 2006 itself after the Award the petitioners have sought higher compensation and even made a reference under Section 18 of the Land Acquisition Act, 1894. In these circumstances, the claim that the petitioners were not dispossessed is untenable. Learned counsel also submitted that when initially the revenue authorities along with the acquiring officials of the Government went to site, they were able to take possession of vacant land. Learned counsel relies upon the possession proceedings dated 18.11.2005, which clearly recorded that the possession of some 1425 bighas and 14 biswas of vacant land was taken. It was emphasized that since there were built up structures and constructed properties, police assistance was sought and later on another date the possession was taken of the other portions after carrying on demolition activity. The proceedings recorded for that purpose dated 18.11.2005 have been relied upon.

6. As is evident from the above discussion, the petitioners cannot deny, rather have to concede that the compensation was accepted by them in the year 2006 soon after the Award. They even have sought a reference; those proceedings are pending. Their only contention is that the possession of the land continues to be with them. Here the respondents resist the proceedings by pointing out that proceedings towards actual physical possession were conducted on 18.11.2005 and that whatever could not be taken possession of

on date, due to built up properties, was proceeded with and the structures were demolished with the aid of police they rely upon the rulings of the Supreme Court in *Delhi Development Authority v. Sukhbir Singh* 2016 SCC Online SC 929.

7. The documents on record clearly belie the petitioners' contention that actual physical possession was not taken. The proceedings of land acquisition authorities/respondents clearly reflect that on 18.11.2005 physical possession of the vast tract of land (i.e. about 1425 bighas) was taken over and the proceedings clearly record that since on some Khasra numbers constructions existed, the authorities proceeded to have them demolished and got vacated the properties and took over possession.

8. In these circumstances, the Court is of the opinion that the authorities relied upon by the petitioner are of no avail – rather the decision in *Delhi Development Authority v. Sukhbir Singh* (supra), and its ratio would apply.

9. For the above reasons, the writ petition has no merit and is consequently dismissed.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 25, 2017

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