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

% Judgment delivered on: 02nd May, 2017

+ **W.P.(C) 3284/2016 & CM No. No.13975/2016**

JAI SINGH

..... Petitioner

Through : Mr.Akhilesh Kumar Singh, Advocate.

versus

LAND ACQUISITION COLLECTOR AND ORS

..... Respondents

Through : Mr.Vijay Joshi, Advocate for
respondent No.1.

Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Singh, Advocate for
L&B/LAC.

Mr.S.K.Seth and Ms.Dolly Sharma,
Advocates for respondent Nos.4&5.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J. (Oral)

1. The petitioner claims to be a part owner of a plot of land bearing No.36-A, admeasuring 207 square yards falling in Khasra No.140/8, falling in revenue estate of Village Dichaon Kalan, Delhi . The petitioner claims to have purchased the plot on 09.01.2004 on the basis of a general power of attorney and alleges to be in possession of the property since its purchase.

2. On 07.04.2006, land admeasuring 407 bigha 19 biswas of

village Dichaon Kalan, Delhi was notified under Section 4 of the Land Acquisition Act, 1894 vide notification bearing No.F.9(88) 2004/L&B/LA/176. The objections were called and on 04.04.2007 the notification under Section 6 of the Act was issued as the land was required to be taken for construction of 100 meter road under the Planned Development of Delhi.

3. On 31.12.2011 public notice was issued under Section 17(2) of the Act for vacating all structures in the aforesaid Khasra numbers. However, the petitioner alleges that neither the possession of his land was taken by the appropriate government nor any compensation was paid to him, hence he intends to claim benefit under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 by way of this petition.

4. The counter affidavit was filed by the first respondent and the relevant assertions are in paragraph Nos.4 and 5 which is as under:-

“4. That the present writ petition is a gross abuse of process, of law and is misconceived as the petitioners have not approached the Hon'ble Court with clean hands as the petitioner has filed the present writ petition in his own name without the petitioner being a recorded owner of the subject property. The present writ petition is further liable to be dismissed as the petitioner vide letter dated 10.1.2012 has duly admitted that he purchased the property on basis of GPA and compensation be released in his name and not in the name of recorded owners. The present writ petition is further liable to be dismissed as the petitioner has

entered in Agreement to Sell dated 9.1.2004 portraying that he had purchased 207 sq. yds out of khasra number 140//8 however there is also an affidavit by one Didar Singh that he had given attorney only for 67 sq. yds out of the said 207 sq. yds. The writ petition is further liable to be dismissed as petitioner has relied upon another GPA dated 22.5.08 portraying another parcel of 140 sq. yds in the said khasra number. On basis of the GPA/ Agreement to Sell, the petitioner cannot claim that he became the recorded owner of the property as GPA/Agreement to Sell does not confer any right, title or interest on the petitioner akin to the sale documents.

5. That it is submitted that the lands of village Dhichaon Kala were notified vide Notification under section 4 of the Land Acquisition Act 7.4.2006 which was followed by Notification under section 6 of the said Act vide Notification dated 4.4.2007. The Award No.10/08-09 dated 30.12.2008 was also passed in accordance with the law under Section 11 of the Land Acquisition Act, 1894. The actual vacant physical possession of the land measuring (4-06) falling in khasra number 140//8 (4-16) was taken on the spot on 10.2.2012 and handed over to the DDA on the spot by preparing possession proceeding and the compensation was duly deposited with the Hon'ble Court in CM(M) No. 1416/2013 on 30.12.2013."

5. Thus, according to the respondents, the physical possession of the land admeasuring (4-06) falling in Khasra number 140//8 (4-16), including the subject land was taken at the spot on 10.02.2012 and was handed over to the DDA by preparing possession proceedings and the compensation was duly deposited with the Court in CM(M)

No.1416/2013 on 30.12.2013. Now, once the possession was taken by the appropriate government, the possession of the petitioner, if any, can only be treated as that of a trustee on behalf of public at large and it cannot be a ground for enhanced compensation.

6. Admittedly, the name of the petitioner is not included in the Award as a claimant, probably, because he sold his plot to someone to avoid acquisition. Hence the fact if any compensation was tendered to the recorded owner or to any one else is a disputed question of fact and cannot be decided in this writ. Admittedly, the compensation stands duly deposited in the Court in CM(M) No.1416/2013 on 30.12.2013. Thus, no ground is made for grant of benefit to the petitioner under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. Consequently, the writ petition and pending miscellaneous application are dismissed.

YOGESH KHANNA, J

S. RAVINDRA BHAT, J

MAY 02, 2017

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