

\$~41

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

% Judgment delivered on: 02nd May, 2017

+ **W.P.(C) 3113/2016 & CM No. No.13275/2016**

REETA DEVI

..... Petitioner

Through : Mr.Akhilesh Kumar Singh, Advocate.

versus

LAND ACQUISITION COLLECTOR AND ORS

..... Respondents

Through : Mr.Sanjay Kr Pathak, Ms.Koumuki
Kiran Pathak, Mr.Sunil Kumar Jha
and Mr.Kushal Raj Tater, Advocates
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 plot bearing No.16, admeasuring 150 square yards, falling in Khasra No.140/2, in the revenue estate of Village Dichaon Kalan, Delhi. The petitioner claims to have purchased the property on 05.01.2001 on the basis of documents viz GPA etc and says to be in possession of the subject land 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 since the land was required to be taken over for the 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. The petitioner alleges that neither the possession of her land was taken by the appropriate government nor any compensation paid to her and hence she claims benefit of 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. Paragraph Nos.7 & 10 of the counter affidavit filed by the Land Acquisition Collector is as under:-

“4. That vast tract of land including the land comprised in Khasra 140//2 situated in the revenue estate of village Dichaun Kalan New Delhi was notified for acquisition for public purpose vide notification dated 07.04.2006 issued under Section 4 of the Old Act followed by declaration issued under section 6 issued on 04.04.2007 and pursuant to which an award being Award No.10/2008-09 was also made on 30.12.2008 with respect to the acquired land including the land of the petitioner.

10. That as regards possession and compensation, it is humbly submitted that as per possession proceeding report possession of subject land comprised in Khasra No.140 //2 (1-17) has

been taken on 10.02.2012. So far as compensation amount is concerned it is humbly submitted that as per record compensation amount of Rs.4,75,76,597/- has been deposited in the court of Additional District Judge under section 31(2) vide cheque No.847117 dated 27.12.2013. As per Naksha Muntzamin Khasra No.140//2 has been shown in two separated items. The recorded owner of the land (1) Kh No.140//2min(1-0) is Shiv Kumar S/o Shri Madan Lai, R/o Indira Market, Bahadurgarh, Haryana and (2) Kh No.140//2Min(0-17) U/S-81 is Gram Sahaba. The Petitioner is not the recorded owner.”

5. Thus, according to the respondents, the recorded owners of subject land are one Shiv Kumar s/o Madan Lal and the Gram Sabha, as per *Naksha Muntzamin*. Moreover, the possession proceeding report shows that possession of subject land comprised in Khasra No.140//2 (1-17) was also taken by the appropriate government on 10.02.2012. Suffice is to say that once the possession is 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 cannot be a ground for enhanced compensation.

6. Admittedly, the petitioner is not a recorded owner of the land nor her name figures in the list of claimants in award. Therefore, there was no question of tendering or paying any compensation to her. Nevertheless, the compensation amount of ₹4,75,76,597/- is still lying deposited in the Court of Additional District Judge vide cheque No.847117 dated 27.12.2013. Hence, no ground is made out for grant

of benefit to her 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

M

