

\$~23

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

+ W.P.(C) 2587/2015 & CM APPL. 4632/2015

SUDHIR KUMAR YADAV Petitioner

Through : Mr.Akhil Sachar, Advocate.

versus

THE LT GOVERNOR, GOVERNMENT OF NCT OF DELHI &
ORS Respondents

Through : Mr.Arjun Pant, Advocate for DDA.

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

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

% **11.07.2017**

1. The petitioner claims declaration that acquisition proceedings of his properties to the extent of 1 bigha, 1.5 biswas out of Khasra No.299, 300, 305 & 306 in the Revenue Estate of Village Shahbad Daulatpur, Delhi, by virtue of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has lapsed.

2. The facts are that notification under Section 4 of the Land Acquisition Act to acquire the suit land was issued on 28.04.1995; declaration was subsequently made on 26.04.1996 under Section 6 of the Land Acquisition Act. The award was published on 24.04.1998 (being No.1/98-99). To assert the right to pay compensation etc., specially under Section 24, the petitioner has approached this Court complaining that the inability of the State / respondent to take possession of the suit land at least to the extent owned by him has resulted in the lapsing of the acquisition to such extent. The respondent LAC, representing the appropriate government in its counter-affidavit has made the following admission :

“6. That it is submitted that the lands of village Shahbad Daulatpur were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 28.4.1995 which was followed by the Notification under section 6 of the Act dated 26.4.1996. The Award was also passed vide Award No. 1/98-99 dated 24.4.1998 and also the possession of the subject land admeasuring 1 bigha 1.5 biswa falling in khasra numbers 299, 300, 305 and 306 was taken on 26.11.2012 on the spot and handed over to the DDA by preparing Possession Proceedings on the spot however the compensation could not be paid. It is further submitted that out of the total area falling in khasra numbers 299 (5-05), possession of only 15 biswa could be taken whereas in khasra number 300 (8-12), the total possession of land was taken. In khasra number 305 (8-13), the possession of (7-13) was taken whereas in khasra number 306 (3-10), the possession of 3-03 was taken. It is thus not clear as to whether the petitioner is seeking benefit of the new enactment out of the lands of which the possession was duly taken by the appropriate government or the land which could not been taken possession of by the government.”

3. This Court has considered the submissions and the averments in the documents and the petitioner’s claim has to succeed. Clearly possession of entire lands which are part of Khasra No.299, 300,305 & 306 could not be taken – although some portions were taken. In these circumstances, a declaration is issued to the extent of the petitioner’s ownership of lands out of the said Khasra numbers, i.e. 1 bigha, 1.5 biswas, the acquisition is deemed to have lapsed. A declaration is so issued; the writ petition is allowed in the above terms. Pending application also stands disposed of.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 11, 2017 / tr