

\$~35

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

DECIDED ON : 17th JULY , 2017

+ **W.P.(C) 3699/2016 & CM APPL. 15794/2016**
LAJJAWATI Petitioner
Through : Mr.Aman Nandrajog, Advocate.
versus
UNION OF INDIA & ORS Respondents
Through : Mr.Praveen K.Jain, Advocate for R1.
Ms.Ruchika Rathi, Advocate for L&B/LAC.
Ms.Rukhmini & Ms.Saumya Priyadarshiney,
Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

1. In the instant writ petition, the petitioner claims herself to be owner in respect of land of Khasra Nos. 1795/2 (0-13), 1796/2 (1-2), 1814/2 Min (0-4) and 1815/2 Min (0-2) admeasuring 2 Bighas and 1 Biswa situated in the Revenue Estate of Village Chattarpur, Tehsil Hauz Khas, New Delhi. The petitioner's claim is that acquisition of her lands (hereinafter referred to as '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').

2. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 25.11.1980; it included the suit land. A declaration was issued under Section 6 on

07.06.1985. The award bearing No. 15/87-88 dated 05.06.1987 was made by the Land Acquisition Collector.

3. The petitioner avers 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.

4. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, significantly makes the following admission in Para (7) :

“7. That the Land Acquisition Collector passed an Award bearing No. 15/87-88 dated 05.06.1987 and it is submitted that the physical possession of the lands bearing Khasra Nos. 1795/2 (0-13), 1796/2 (1-2), 1814/2 (0-4) and 1815/2 (0-2) could not be taken and the compensation amounting to Rs.181612.98/- each in the name of Lajjawati and Smt. Raj Kaur sent to the Revenue Deposit.”

5. It is evident that neither possession of the suit lands was taken over nor any compensation for acquisition of the suit lands was tendered or paid to the recorded owner(s).

6. The Supreme Court in Pune Municipal Corporation case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. That decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the

concerned amount and make it available to the land owner, i.e. by way of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

7. As the respondents have not denied that the compensation of the suit land has not been paid and its possession has not been taken, the petitioner is entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra Nos. 1795/2 (0-13), 1796/2 (1-2), 1814/2 Min (0-4) and 1815/2 Min (0-2) vide award No. 15/87-88 dated 05.06.1987 is deemed to have lapsed by virtue of Section 24(2) of the Act.

8. The writ petition is allowed in the above terms.

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

**S. RAVINDRA BHAT
(JUDGE)**

JULY 17, 2017 / tr