

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

Date of Decision: September 11, 2017

+ **W.P.(C) 3659/2016 & C.M.15669/2016**

M/S TAROUNI CONSTRUCTION & FINANCE (P) LTD

..... Petitioner

Through: Ms. N.S. Vashisht and Mr. M.P.
Bhargava, Advocates

Versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms. Ruchika Rathi, Advocate for
respondent-L&B/LAC

Ms. Meera Bhatia, Advocate for respondent-
UOI

Mr.Sanjeev Sabharwal, Standing Counsel with
Ms. Ridhi, Advocate for respondent-DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J. (OPEN COURT)

1. Learned counsel for respondent-L&B/LAC seeks liberty to place on record counter affidavit. Liberty granted. Counter affidavit is taken on record.

2. The petitioner seeks a declaration that the suit lands i.e. Khasra No.1442/2 (1-10), situated in Revenue Estate of Village Chhattarpur, Tehsil Hauz Khas, New Delhi are free from acquisition by reason 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 of 2013').

3. In the present case, the facts are that the suit lands alongwith several others were notified on 25.11.1980 under Section 4 of the old *Land Acquisition Act* (of 1894) and thereafter, a declaration under Section 6 was issued on 07.06.1985. Later on, notices were issued to the persons interested and the land owners and the Award was published on 05.06.1987 assessing all lands to compensation. The petitioner contends that since neither possession of the suit lands was taken nor was compensation paid in accordance with law, the acquisition of suit lands is deemed to have lapsed.

4. The Appropriate Government i.e. Govt. of NCT of Delhi in its counter affidavit pertinently states as follows: -

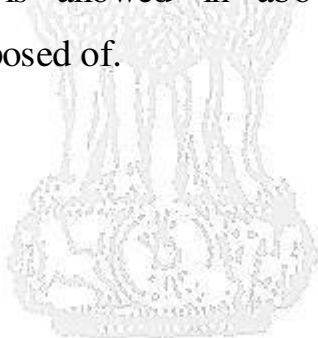
“That the Land Acquisition Collector passed an Award bearing No.15/87-88 dated 05.06.1987 and it is submitted that the High Court of Delhi in CWP No.3149/85 had granted the stay dispossession hence the physical possession of the lands bearing Khasra No.1442/2 (1-10) could not be taken and the compensation of Rs.215114.41/- and 197123.28 respectively had been deposited or send in the name of Ms. Belagato Devi D/o. Duli Chand and Smt. Shobha Narayan W/o. Pratap Singh to the Revenue Deposit (RD).”

5. A declaration of law by the Supreme Court in its judgment reported in *Pune Municipal Corporation and. Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183 is forthright that irrespective of any impediment on account of interim orders by Courts or such like situations which prevent State Authorities from taking over possession, if within 5 years period stipulated by Section 24 (2) of the Act of 2013, either

contingencies occurs i.e. neither compensation is paid nor is possession taken in respect of lands, the acquisition is deemed to have lapsed.

6. In the present case, respondent-Appropriate Government's counter affidavit is not categorical that the compensation was paid as envisaged in *Pune Municipal Corporation (supra)*. Nor does the counter affidavit also admit that the possession could not be taken on account of interim orders. Therefore, in this case, Section 24 (2) of the Act of 2013 squarely applies. A declaration is issued that the suit lands i.e. Khasra No.1442/2 (1-10), situated in Revenue Estate of Village Chhattarpur, Tehsil Hauz Khas, New Delhi are free from acquisition and the acquisition is deemed to have lapsed by virtue of Section 24 (2) of the Act of 2013.

7. The writ petition is allowed in above terms. The pending application also stands disposed of.



S. RAVINDRA BHAT
(JUDGE)

SUNIL GAUR
(JUDGE)

SEPTEMBER 11, 2017

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