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

% Judgement delivered on :10.04.2017

+ **W.P.(C) 4981/2014**

BRIJESH NARAIN

..... Petitioner

Through Mr.Muhammad Ali Khan, Mr.Jaspal
Singh, Mr.Omar Hoda and
Ms.Namrah Nasir, Advs.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through Mr.Yeeshu Jain, st.counsel with
Ms.Jyoti Tyagi, Advs.
Mr.Pawan Mathur, st. Counsel for
DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

S. RAVINDRA BHAT, J (Oral)

CM No.39379/2016

Allowed subject to just exception.

W.P.(C) 4981/2014 & CM Nos.9962/2014, 16020/2014

1. The petitioner seeks release of land to the extent of two bighas 16 biswas in khasra No.408/2/2 min in Chattarpur, New Delhi. It is stated that notwithstanding the acquisition by notification of 1980 and the award dated 5.6.1987 the petitioner continued in possession and therefore is entitled to relief assured under Section 24(2) of the Right

to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This Court on 19.1.2015, had inter alia allowed the petition as regards with all other khasra numbers except the portion mentioned earlier. It was held as follows:-

“Insofar as khasra numbers 408 min (1-12) and 406/2 (0-06) are concerned, it is contended by the learned counsel for the respondents that physical possession was taken by the land acquiring agency and compensation was also paid in respect thereof. This is, however, disputed by the learned counsel for the petitioner. As regards the other lands there is no dispute that neither physical possession has been taken by the land acquiring agency nor has compensation been paid to the petitioner. Therefore, insofar as those lands are concerned, the award having been made more than five years prior to the commencement of the 2013 Act, all the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:-

- (i) Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC 183;*
- (ii) Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC 564;*
- (iii) Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No. 8700/2013 decided on 10.09.2014;*
- (iv) Surinder Singh vs. Union of India and Ors.: W.P.(C) 2294/2014 decided 12.09.2014 by this Court.*

As a consequence, the petitioner is entitled to a declaration that the acquisition proceedings in respect of the subject land (except the two khasra numbers, in respect of which there is a dispute) initiated under the 1894 Act are deemed to have lapsed. It is so declared.”

2. Consequent upon the order of the Court, status report was filed by the concerned SDM, Saket, which clearly states as follows:-

“iv. As per physical verification, Khasra No.408 (0-8) is in possession of Sh.Narain Sh.Rajesh Narain, Sh.Brijesh Narain all sons of Sh.Kripa Narain, however, as per revenue record, ownership is reflecting in the name of Sh.Ranjit Singh etc. While cultivator possession is reflecting in the name of Sh.Narain, Sh.Rajesh Narain, Sh.Brijesh Narain all sons of Sh.Kripa Narain.

v. That, out of khasra No.408/2 (3-18), an area 01 bigha 12 biswa bearing khasra No.408/2 min stands acquired and was handed over to Department of MTNL and the same is in the possession of Department of MTNL as per physical verification carried out by the revenue staff of this office. Remaining area 02 bigha 16 biswa bearing khasra No.408/2 min is reflecting in the name of Sh.Narain, Sh.Rajesh Narain and Sh. Brijesh Narain all sons of Sh.Kripa Narain as per revenue record, however, khasra No.408/2 min (2-16) is partly in possession of Sh.Narain to the extent of 01 bigha 18 biswa and 18 biswa is in possession of Sh.Yogesh Chandra as per physical verification carried out by the revenue staff of this office.”

3. The petitioner relies upon certified copies of the khasra girdawari and the khatauni to state that the possession of the relevant portion i.e. 408/2 (2-16 excluding 18 biswas) is with him. As far as the possession of 18 biswas, the status report shows that it is with Yogesh Chandra, who appears to have purchased it from the present petitioner subsequently. Since he was not shown in the records as the owner or the person in possession it appears that he has not joined this writ petition.

4. Having regard to the record and the verification of the possession, this Court is of the opinion that the petitioner is clearly entitled to the relief prayed for. Likewise the status report and the record shows that the possession of two biswas within khasra No.406/2 is also with the petitioner.

5. It is therefore declared that the acquisition qua khasra no.406/2 to the extent of 2 biswas and qua khasra no.408/2 min to the extent of 2 bighas 16 biswas shall stand lapsed in view of Section 24(2) of the Act.

6. The writ petition is allowed.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 10, 2017
VLD