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

\+ W.P.(C) 5664/2014

OM PARKASH & ORS ..... Petitioners

Through : Mr.Anuroop P.S., Advocate.

versus

THE HONORABLE LT. GOVERNOR & ORS ..... Respondents

Through : Mr.Pawan Mathur, Standing Counsel for DDA.

Mr.Siddharth Panda, Advocate for LAC.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE S.P.GARG

O R D E R

% 18.07.2017

The petitioners' claim is for declaration that the acquisition of the suit lands i.e. Khasra No.2528/1229 (12-11) having 1/3rd share and 1223 (6-10) having 1/3rd share, in the revenue estate of Village Kishangarh, Mehrauli, New Delhi, is deemed to have lapsed by virtue of Section 24 (2) of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (hereafter called 'the Act').

Concededly, the notification under Section 4 of the Land acquisition Act, 1894 was made on 23.01.1965; a declaration followed under Section 6 of the old Act on 07.12.1966. After issuing notices under Sections 9 /10, an award No. 80E/70-71 was finalised and published on 09.01.1981 by the Land Acquisition Collector. Petitioners' claim is that full compensation in accordance with the Act

was not tendered and they are entitled to the declaration in view of the Section 24(2) of the Act.

The respondent i.e. Govt. of NCT of Delhi / appropriate Government, has stated *inter alia* in its counter-affidavit as follows :

> *"6. That as per the record, the land in question i.e., Khasra No. 2528/1229 (12-11) having 1/3rd share and 1223 (6-10) having 1/3rd share situated at the revenue estate of village kishangarh, Mehrauli, New Delhi, was notified under section 4 of Land Acquisition Act on 23.01.1965 followed by declaration under section 6 of Land Acquisition Act on 07.12.1966 for Planned Development of Delhi. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims were also filed by the interested persons including the predecessor (s) in interest of the present petitioners with respect to the above said land in question. The*
> *than Land Acquisition Collector passed Award No. 80E/70-71 dated 09.01.1981 after considering the claims of the claimants.*
> *7. That in the present case, the possession of the land bearing 2528/1229 (12-11) and 1223 (6-10) was taken over and handed over to the beneficiary department on 23/09/1981. However, payment of compensation with respect to the above mentioned lands could not be ascertained due to torn condition of the Naksha Muntzamin.*
> *8. That it is humbly submitted that in the present case provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would not be applicable as the possession of land in question*

has already been taken over by the Government and handed over to the beneficiary department and thus, the land is free from all encumbrances whatsoever."

It is evident from the above discussion that whilst the basic facts have not been disputed, the Govt. of NCT of Delhi clarifies that possession of lands was taken, however its stand vis-a-vis payment of compensation is ambiguous. It cannot be clearly ascertained that compensation in accordance with law was tendered to the land owners. In addition to this, the Court has been informed that the co-owners of the suit lands i.e. one Smt. Khazani and others were granted relief towards their 1/3rd share of the same suit lands in W.P.(C) 6587/2014 (Khazani and Ors. vs. Lieutenant Governor & Ors.) by an order dated 23.12.2014. This Court has considered that order.

Having regard to the above position, the Court is of the opinion that the claim in these proceedings has to succeed. A declaration is accordingly issued that acquisition in respect of the suit lands i.e. Khasra Nos.2528/1229 (12-11) and 1223 (6-10) to the extent of petitioners' share is deemed to have lapsed by virtue of Section 24(2) of the Act. The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 18, 2017 / tr