

\$~86

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

% Judgement delivered on: 11th April, 2017

+ **W.P.(C) 4589/2016 & CM No.19101/2016**

RAVI NANDA & ORS

..... Petitioners

Through : Mr.Sachin Sood & Mr.Chandan
Singh, Advocates.

Versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through : Mr.Yeeshu Jain, Standing Counsel
for L&B/LAC with Ms.Jyoti Tyagi,
Advocate.
Mr.Arjun Pant, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

S. RAVINDRA BHAT, J. (Oral)

1. Smt.Kaushalya Devi, the mother of the first five petitioners, grandmother of the seventh petitioner, and mother-in-law of the sixth petitioner was the owner of agricultural land admeasuring 4 bighas and 16 biswas falling in Khasra No.819, situated in village Chatterpur, Tehsil Mehruali, New Delhi.

2. The land was purchased by Kaushalya Devi by sale deed dated 30.07.1980. However, she expired on 08.01.2000 and her husband also died on 15.08.2001. Thus, the petitioners, being her legal heirs,

became the lawful and exclusive owners and in possession of the aforesaid agricultural land.

3. On 25.11.1980 a notification bearing No.F-9(16)-L&B under Section 4 of the Land Acquisition Act, 1894 was issued by the respondent No.4 notifying the land situated in Village Chatterpur, Tehsil Mehruali, New Delhi. Further, on 07.06.1986 a notification bearing No.F-9(26)/85-L&B under Section 6 of the Act was issued declaring the subject land is needed for the public purposes namely the 'Planned Development of Delhi'.

4. The Land Acquisition Collector had passed an award bearing No.15/87-88 of village Chatterpur, New Delhi. It is alleged that the petitioners never received any compensation in respect of their land falling in Khasra No.819 and till date they continue to be in uninterrupted and legal possession of land in question and rather are running a charitable hospital by the name and style of 'Nanda Medical Centre'. The photographs of the hospital as also the relevant Khasra Girdawari has been filed.

5. An application dated 01.03.2006 was moved by the petitioners under the Right to Information Act and they received a reply dated 28.04.2016 of stating inter alia that no compensation was disbursed to Smt.Kaushalya Devi or to the petitioners ever.

6. The third respondent – Delhi Development Authority (DDA) has not disputed the above facts, but has alleged that an amount of ₹100 Crores was remitted by the Central Government to the Land and

Building Department, Government of NCT of Delhi on account of compensation of 13 South Delhi villages including Village Chattarpur, New Delhi.

7. The fourth respondent, Land Acquisition Collector (LAC) – Mehrauli has filed the counter affidavit dated 31.01.2017, the relevant portion whereof reads as under:-

“6. That it is submitted that the lands of village Chatterpur were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 25.11.1980 which was followed by the Notification under section 6 of the Act. The Award was also passed vide Award No.15/87-88 dated 05.06.1987 however possession of the land falling in khasra number 819(4-16 could not be taken nor the compensation could be paid. The compensation was lying deposited in RD in the name of Koshyalaya Devi but the amount in RD withdrawn vide RV No.1372 dated 07.05.1993 for Rs.194793740.80 for Award No.1/93-94.”

8. The respondents therefore have not denied the averments of the petitioners that ‘Nanda Medical Centre’ is being run on the land in question and that no compensation was ever disbursed either to Kaushalaya Devi or to the petitioners herein.

9. Thus in the circumstances the Court is of the opinion that the relief claimed has to be granted in view of the decision in *Pune Municipality Corporation & Anr. V. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183 wherein the Supreme Court has held as under:-

“under section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under section 24 (2) comes into operation as soon as conditions stated therein are satisfied, the applicability of section 6 of the General Clauses Act being subject to section 24 (2), there is no merit in the contention of the corporation (emphasis supplied)”

10. Further, in *Bharat Kumar Vs. State of Haryana & Ors* 2014(3) SCALE 393, Supreme Court also held as under:-

“Sub-section (2) of section 24 commences with a non-obstante clause. It is a beneficial provision. In view of this provision, if the physical possession of the land has not been taken by the acquiring authority though the award is passed and if the compensation has not been paid to the land owners or has not been deposited before the appropriate forum, the proceedings initiated under the act, 1894 is deemed to have been lapsed.”

11. In the present case, since the appropriate government has not denied that the compensation was not disbursed to the petitioners (as it was never tendered or given to them) nor its possession was taken over by it, therefore, following decision in *Pune Municipality* (supra) the relief claimed needs to be granted. A declaration is issued that the acquisition of the agricultural land admeasuring 4 bighas and 16 biswas falling in Khasra No.819, situated in village Chatterpur, Tehsil Mehruali, New Delhi, has lapsed in view of the provisions Section 24(2) of the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013. A consequential direction quashing the notification, award (in so far as it relates to the subject land) is issued.

12. Writ petition and pending applications are allowed in these terms.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 11, 2017

M/RS

