

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

% Date of decision: 17th November, 2017

+ W.P.(C) 4665/2016

RAJESH WADHWA Petitioner

Through: Mr. M.P. Bhargava, Adv.

versus

UNION OF INDIA & ORS. Respondents

**Through: Mr. Roshan Lal Goel and Ms. Anju
Gupta, Advs. for R1.
Mr. Siddharth Panda, Adv. for
L&B/LAC.
Mr. Rajiv Bansal, Sr. Adv. with
Mr. Shlok Chandra, Adv.**

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J (ORAL)

1. This is a petition filed under Article 226 of the Constitution of India by the petitioner, who seek a declaration that the acquisition proceedings with respect to one-third share (admeasuring 3 bigha and 1 biswas) out of land comprised in 13 bighas comprised in Khasra No. 761/605 (6-18), 764/606(3-0), 941/623 (3-0) and 946/623 (0-2) situated in the Revenue Estate of Village Maidan Garhi, NCT of Delhi is liable to have lapsed.

2. It is pointed out that Section 4 Notification of the Land Acquisition Act, 1894 was issued on 25th November, 1980 followed by Section 6 Notification

dated 18th June, 1985 and the Award bearing No. 23/87-88 was made on 17th June, 1987. As per the writ petition, neither physical possession of the land has been taken nor compensation paid.

3. Per contra, counsel for the LAC submits that the present petition is liable to be dismissed as the compensation stands paid and the possession has also been taken over. Reliance is placed on para 4 of the counter affidavit, which reads as under:-

“That the present writ petition is liable to be dismissed as the petitioner has misguided the Hon’ble Court by stating that the physical possession of the subject land has not been taken nor the compensation has been paid. It is submitted that the actual vacant physical possession of the subject land was duly taken on the spot on 16th July, 1987 by preparing possessing proceedings on the spot and handed over to the DDA on the spot. The compensation for the said land was also paid to the respective share holders as the revenue record shows the names of Bhim Singh ½ share, (Hukum hand, Maan Singh and Mir Singh having ½ share in total) and have been compensation of Rs.4,55,225/- to Bhim Singh on 10.09.1977, and Rs.1,51,741.68 each to Hukum Chand, Maan Singh and Mir Singh on 31.08.1987 respectively. Thus the compensation having been paid to the original recorded owners, the petitioner being one of the sons of one of the co-sharer cannot contend that his father did not receive compensation and possession of land was not taken by the Government.”

4. Heard counsel for the parties.

5. The reading of the counter-affidavit would show that the compensation for the said land was paid to the respective share holders, i.e., Bhim Singh ½ share, (Hukum hand, Maan Singh and Mir Singh having ½ share in total) in the sum of Rs. 4,55,225/- on 10.09.1977 and Rs.1,51,741.68 each to Hukum Chand, Maan Singh and Mir Singh on 31.08.1987. Counter-affidavit also reveals that the compensation has been paid to the original recorded owners and petitioner being one of the sons' of one of the co-sharers cannot claim relief in terms of the writ petition. No rejoinder to the counter-affidavit has been filed. Resultantly, no relief can be granted to the petitioner.

The writ petition is dismissed.

CM. No. 19377/2016 (for Stay)

In view of the order passed in the writ petition, this application is dismissed.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 17, 2017/jg