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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4324/2015**

OM PARKASH CHOUDHARY Petitioner
Through : Appearance not given.

versus

UNION OF INDIA & ORS. Respondents
Through : Ms. Suman Chauhan and Sh. Jivesh
Tiwari, Advocates, for UOI.
Sh. Arjun Pant, Advocate, for DDA.
Sh. Siddharth Panda, Advocate, for Respondent
Nos. 2 and 3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
21.08.2017

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1. The petitioner claimed direction that the suit land, i.e. 700 square yards out of Khasra no.291 min [hereafter referred to as “the suit land”] situated in the revenue estate at Lado Sarai is free from acquisition.

2. The brief facts are that the Notification under Section 4 of the *Land Acquisition Act, 1894* [hereafter “the 1894 Act”] was issued in respect of the suit land along with others on 13.11.1959. This was followed by a declaration under Section 6 of the 1894 Act on 16.05.1966. The Land Acquisition Collector (LAC) made the Award on 19.06.1980. The total extent of land under the award under Khasra 291 min is 12 bighas 13 biswas.

3. The petitioner contends that since the suit land – to the extent of possession of 229 square yards - was not taken by the respondents, the mandate of 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* [hereafter “the 2013 Act”] applies. It is also contended that the compensation paid to the original land owner - Mangee Ram - is only partial and that complete compensation pertaining to suit land was not paid. Therefore, it is contended by the learned counsel that the suit land is to be declared as free from acquisition.

4. The respondents/GNCTD in their counter affidavit state as follows:

“6. That the land in question, i.e. Khasra No.291 measuring 700 sq. yds. situated at the revenue estate of village Lado Sarai, New Delhi, was notified under section 4 of the Land Acquisition Act on 13.11.1959 followed by declaration under section 6 of Land Acquisition Act on 16.05.1966 for Planned Development of Delhi. In pursuance of said notification, notices under section 9 and 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons. The then Land Acquisition Collector passed Award No.36/80-81 dated 19.06.1980 after considering the claims of the claimants. The total extent of the land under the above said award of khasra no.291 is 12 bighas and 13 biswas. ”

5. The effect of Section 24(2) and the proviso to that provision was considered by this Court in *Suraj Singh and Anr. v. Hon'ble Lieutenant Governor, Raj Bhawan, Delhi and Ors.* [W.P.(C) 6395/2014, decided on 02.05.2017]. The Court had relied upon *Ram*

Prakash Kathuria v. UOI and Ors. [W.P.(C) 4465/2016, decided on 24.01.2017], where it was held that if majority of the land owners concerned accepted compensation and they are dispossessed, Section 24(2) of the 2013 Act would not be attracted with respect to the part left over. In the present case, the petitioner's contention about dispossession from the suit land has been denied. In fact, even his contention with respect to being "person interested" is disputed given that the original land owner received compensation in respect of the majority of the award.

6. In these circumstances, the rule in *Suraj Singh (supra)* is applicable. The petitioner at best can claim subsequent purchaser's right to compensation in accordance with the 1894 Act.

7. The writ petition is accordingly dismissed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

AUGUST 21, 2017/ajk