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

DECIDED ON : 18th JULY , 2017

+ **W.P.(C) 4771/2016 & CM APPL. 19887/2016**

AMRIT LAL ARORA & ANR. Petitioners

Through : Mr.N.P.Sahni, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through : Mr.Roshan Lal Goel & Ms.Anju Gupta,
Advocates for UOI.

Ms.Shobhana Takiar, Advocate for DDA.

Mr.Yeeshu Jain, Standing Counsel with Ms.Jyoti
Tyagi, Advocate for L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

1. Learned counsel for the Govt. of NCT of Delhi through LAC seeks liberty to place on record the counter-affidavit. Liberty granted. Counter-affidavit is taken on record.

2. In the instant writ petition, the petitioners claim themselves to be recorded owners of the land of Khasra No.734/2(4-3) and 736/2(2-18) measuring 7 bighas and 1 biswa situated in the Revenue Estate of Village Satbari, Tehsil Mehrauli, New Delhi. The petitioners' claim is that acquisition of their lands (hereinafter referred to as 'suit land') has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

3. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 25.11.1980; it included the suit land. A declaration was issued under Section 6 on 27.05.1985. The

award bearing No.14/87-88 dated 14.07.1987 was made by the Land Acquisition Collector.

4. The petitioners aver that pursuant to the award, neither physical possession of the suit land was taken over by the respondents nor any compensation in respect thereof was ever paid or tendered. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since five year period indicated in Section 24(2) of the Act has ended.

5. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, significantly makes the following admission in Para (7) :

“7. That as per the records available the actual vacant physical possession of the land falling in khasra number 734/2(4-3) and 736/(2-18) could not be taken. As per the Statement-A the compensation in respect of the said land could not be paid and was sent to RD. A letter dated 14.07.2017 has been sent to PAO-6 to verify if any payment is done from PAO-6 to the recorded owner. Till a reply is received from the PAO-6, it is requested not to decide the case against the interest of the Govt.”

6. It is evident that neither possession of the suit lands was taken over nor any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s).

7. The Supreme Court in *Pune Municipal Corporation* case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. That decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the concerned amount and make it available to the land owner, i.e. by way of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

8. As the respondents have not denied that the compensation of the land in Khasra No.734/2(4-3) and 736/2(2-18) has not been paid and its possession has not been taken, in the present case, the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra No.734/2(4-3) and 736/2(2-18) measuring 7 bighas and 1 biswa vide award No.14/87-88 dated 14.07.1987 is deemed to have lapsed by virtue of Section 24(2) of the Act.

9. The writ petition is allowed in the above terms. Pending application also stands disposed of.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

JULY 18, 2017 / tr