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

Date of Decision: August 22, 2017

+ **W.P.(C) 5339/2016**

ANITA SINGH

.... Petitioner

Through: Mr. Akhilesh Kumar Singh,
Advocate

versus

LAND ACQUISITION COLLECTOR & ORSRespondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Singh, Advocate for
respondent-L&B
Mr. Chiranjiv Kumar, Advocate
for respondent No.3/UOI
Mr. Sharan Dev Singh Thakur and
Ms. Natasha Thakur, Advocates
for respondent-DDA
Mr. Sharat Kapoor and Mr. C.B.
Tiwari, Advocates for respondent
No.4-GNCTD

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

22.08.2017

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1. The claim in these proceedings is for a direction that the subject land to the extent of 100 Square Yards in respect of Khasra No.140/9/1 situated in the Revenue Estate of Village Dichaun Kalan, Delhi, which is the petitioner's property by virtue of Sale Deed dated 4th March, 2005, acquired by the respondents, is deemed to have lapsed in view of Section 24(2) of *The Right to Fair Compensation and Transparency in Land*

Acquisition, Rehabilitation and Resettlement Act, 2013 [hereafter “the 2013 Act”].

2. The facts of the case are that petitioner claims to be the owner of the subject lands (part of Khasra No.140/9/1 situated in the Revenue Estate of Village Dichaun Kalan, Delhi) by virtue of Sale Deed dated 4th March, 2005. The lands including the subject land were notified for acquisition under Section 4 of *The Land Acquisition Act, 1894* [hereafter “the Old Act”], on 7th April, 2006. Thereafter, considering the objections, the Appropriate Government issued a Declaration on 4th April, 2007. The Award apparently was made sometime in the year 2008/2009. The petitioner claims that as the rightful owner, the petitioner was neither paid the compensation nor was possession taken of the subject land and consequently, by virtue of Section 24 (2) of the 2013 Act, the ownership is said to have lapsed.

3. The respondent-Land Acquisition Collector in the counter-affidavit disputes the petitioner’s *locus standi* contending that she has approached the court claiming to be a General Power of Attorney holder and also further more that she claimed compensation based on such status. It is submitted that the assessed compensation i.e. ₹4,75,76,597/- was deposited under Section 30/31 of the Old Act. It is further more stated in the counter-affidavit as follows: -

“5. That it is submitted that the lands of village Dhichaon Kala were notified vide Notification under section 4 of the Land Acquisition Act dated 7.4.2006 which was followed by Notification under section 6 of the said Act vide Notification dated 4.4.2007. The Award No.10/08-09 dated 30.12.2008 was also passed in accordance with the law under Section 11 of the Land

Acquisition Act, 1894. The actual vacant physical possession of the land measuring (1-00) falling in khasra number 140/9/1 out of total land measuring (1-03) was taken on the spot on 10.2.2012 and remaining (0-03) was not taken in possession due to built up structures there upon. Thus only (1-0) handed over to the DDA on the spot by preparing possession proceeding on the spot. Since the petitioner was not the recorded owner of the subject and the total compensation of Rs.4,75,76,597/- (Rupees Four Crore Seventy Five Lakh Seventy Six Thousand Five Hundred Ninety Seven Only) for the recorded owner was duly deposited with the Ld. Reference Court at Dwarka, Delhi vide cheque number 847117 on 27.12.2013. It is stated that the answering respondent has thus discharged its obligation while making the compensation available for disbursement amongst the lawful owner of the subject land.”

4. Evident from the above factual analysis is that though the assessed compensation was not paid in accordance with the meaning of the expression ‘not paid but deposited’ (infact one of the pre-conditions for escaping the application of Section 24 (2) of the 2013 Act, is the payment or deposit or tendering of compensation to the land owner). Since the entire amount was deposited on account of a dispute, the question of payment cannot be determined. However, the pleading of the Land Acquisition Collector is decisive with respect to compensation out of 1 bigha and 3 biswas, what was taken possession of on 10th February, 2012 was 1 bigha. In the present case, the petitioner claims that the property in her possession which she also claims ownership of, is 100 square yards.

5. In these circumstances, the petition has to succeed to the extent that the acquisition in respect of the subject lands to the extent of 3 biswas (out of 1 bigha and 3 biswas) stands lapsed. It is so directed.

6. The writ petition is allowed to aforesaid extent.

**S. RAVINDRA BHAT
(JUDGE)**

**SUNIL GAUR
(JUDGE)**

AUGUST 22, 2017

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