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

DECIDED ON : 25th JULY , 2017

+ **W.P.(C) 5061/2016 & CM APPL. 21127/2016**
AMIT JAIN & ORS Petitioners

Through : Mr.B.S.Maam, Advocate with
Mr.Vishal Maam, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through : Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for LAC/L&B.
Mr.Puneet Agrawal with Ms.Dalveer Kaur,
Advocates for R1 & R2.
Mr.Rahul Bakshi, Advocate for DDA.

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 measuring 3 bighas and 18 biswas in Khasra Nos. 10//20/2/1 (2-00) and 21/1 (1-18) and 17/1 (1-9) and land measuring 1 bigha and 9 biswas in Khasra No.17//1/1 (2-01), both situated in the Revenue Estate of Village Tajpur Khurd, New Delhi (hereinafter referred to as 'suit land'). The petitioners' claim is that acquisition of their 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 07.04.2006; it included the suit land. A declaration was issued under Section 6 on 04.04.2007. The award bearing No.04/2008-09 dated 31.10.2008 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 Paras (4 & 5) :

"4. That the present writ petition is liable to be dismissed as the physical possession of property bearing Khasra no. 17//1/1 min (1-18), 10//20/2/1 (2-0), 21/1 (1-18) was duly taken by the Government on 29.01.2010. However, remaining 3 biswa land comprised in Khasra No. 17//1/1 min was not taken due to built-up.

5. That as per the records available with the office, the compensation for acquisition of the subject land was duly deposited in ADJ Court on 30.12.2013 vide cheque no. 847125 dated 27.12.2013. Thus there survives nothing in the present writ petition which requires

determination by the Hon'ble Court as the case of the petitioner is not covered by the judgement of Pune Municipal Corporation & Anr. Versus Harak Chand Misiri Mal Solanki & Ors."

6. It is evident that possession of the suit land measuring 3 biswas in Khasrna No. 17//1/1 min was not taken over nor any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s).

7. It is relevant to note that the authorities concerned rushed to the Court to deposit the compensation on 30.12.2013 to scuttle the right accrued to the petitioners under Section 24 (2) of the Act. It has not been explained as to why the authorities waited for about five years not to offer or pay compensation to the petitioners for the acquired land. It is not elaborated if the petitioners offered compensation before its deposit in the Court of learned Addl. Sessions Judge.

8. 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.

9. As the respondents have not denied that the compensation of the suit land has not been paid or tendered and the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that

acquisition of suit land measuring 3 bighas and 18 biswas in Khasra Nos. 10//20/2/1 (2-00) and 21/1 (1-18) and 17/1 (1-9) and land measuring 1 bigha and 9 biswas in Khasra No.17//1/1 (2-01) vide award No.04/2008-09 dated 31.10.2008 is deemed to have lapsed by virtue of Section 24(2) of the Act.

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

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

**S. RAVINDRA BHAT
(JUDGE)**

JULY 25, 2017 / tr