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

+ **W.P. (C) 5930/2016**

MANISH CHAUDHARY & ORS Petitioners
Through: Mr. Rajesh Yadav with Mr. Siddharth
Gupta and Mr. Lalit Kr. Rawal, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B with Ms. Jyoti Tyagi, Advocate.

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

% **ORDER**
18.09.2017

CM APPL.34078/2017 (for early hearing)

For the reasons mentioned in the application, the same is allowed.

CM APPL.34078/2017 is allowed. With consent of counsel for the parties, W.P. (C) 5930/2016 is taken up for hearing today.

W.P. (C) 5930/2016

1. The petitioners seek declaration that the acquisition of their land to the extent of 1/3rd (06-03) share in Khasra No. 19(1-6), 21 Min (2- 0), 287/111 (0-11) & 294/111-112 (14-12) measuring 18 bighas and 9 biswas situated in the Revenue Estate of Village Khajuri Khas, Shahdara, Delhi (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').

2. The petitioners claim that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 26.08.1967; it included the suit land. A declaration was issued under Section 6 on 22.01.1968. The award bearing No.113/86-87 dated 19.09.1986 was made by the Land Acquisition Collector.

3. The petitioners aver that pursuant to the award neither possession of the suit land was taken over by the respondents nor any compensation 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.

4. The Govt. of NCT of Delhi through LAC, in its counter affidavit, states in Para (4):

“4. That it is submitted that for purposes of planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 26.8.1957 which was followed by Notification u/s 6 of the said Act dated 26.8.1967 for the acquisition of the lands falling in Village Khajuri Khas. That an Award No.113/86-87 was passed and the actual vacant physical possession of the subject land falling in khasra number 19(1-06), 21 MIN (2-00), 287/111 (0-11) & 294/112 (14-12) total (18-09) out of which petitioners have been claiming 1/3rd share was taken on 23.9.1986 on the spot and handed over to the DDA after preparing possession proceeding on the spot. The recorded owner/s however never came forward to receive any compensation hence the same is lying unpaid.”

5. It is evident that though the possession of the suit land was taken by the respondents, however, its compensation was never offered or paid to the recorded owners. The counter-affidavit is silent if at any time compensation

was offered to any specific individual. Nothing is on record to infer if the recorded owner(s) of the suit land declined to accept the compensation so offered. As per *Pune Municipality case (supra)*, it was the respondents' duty to offer compensation to the 'person interested' in compliance of the provisions of the old Act.

6. Since the compensation for the acquisition of the suit land has not offered or paid to the petitioners, they are entitled to the declaration sought under Section 24(2) of the Act. Accordingly, it is held that acquisition of the suit land to the extent of 1/3rd (06-03) share in Khasra No. 19(1-6), 21 Min (2-0), 287/111 (0-11) & 294/111-112 (14-12) measuring 18 bighas and 9 biswas situated in the Revenue Estate of Village Khajuri Khas, Shahdara, Delhi has lapsed by virtue of Section 24(2) of the Act.

7. This Court also notices that in identical circumstances, the co-sharer's petition - also seeking the similar declaration to the extent of 1/3rd share in the same khasra numbers in *Devinder & Ors. v. Govt. of NCT of Delhi & Ors. (W.P.(C)5812/2016, decided on 16.08.2017)* was allowed.

8. The writ petition is allowed in the above terms.

9. The date given earlier in the writ petition, i.e., 25.10.2017 stands cancelled.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 18, 2017

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