

\$~7 & 8

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

+ **W.P.(C) 3392/2017, C.M. APPL.14830-14831/2017**

M/S ORCHID REALTORS (P) LTD Petitioner

versus

UNION OF INDIA AND ORS Respondents

+ **W.P.(C) 3393/2017, C.M. APPL.14832 & 14835/2017**

M/S COSMOS REALTORS PVT. LTD. Petitioner

versus

UNION OF INDIA & ORS Respondents

Through : Sh. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates, for Respondent Nos. 4 and 5, in Item
Nos. 7 and 8.

Sh. Nirvikar Verma, Advocate, for UOI, in Item
No.8.

Sh. Sanjeev Sabharwal with Sh. Hem Kumar,
Advocates, for DDA, in Item Nos.7 & 8.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **19.05.2017**

In these cases, the claim made is for declaration that by virtue of Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* [hereafter referred to as “the 2013 Act”], the land measuring 7 bighas 6 biswas (1.1520 acres) of agricultural land in Khasra No.767/616 (4-6) & 768/616 (3-0) situated in the revenue estate of Village Maidan Garhi, Tehsil Hauz Khas (Mehrauli) [in W.P.(C) 3392/2017] and ½ share in the agricultural land measuring 5 bighas

16 biswas (equivalent to 38.66 biswa/2923.2 sq. yards) in Khasra No.638 in the revenue estate of Maidan Garhi, Tehsil Hauz Khas (Mehrauli) [in W.P.(C) 3393/2017] [hereafter collectively referred to as “the lands”] have lapsed. The Notification under Section 4 of the Land Acquisition Act, 1894 [hereafter “the 1894 Act”] for the purposes of acquiring lands in both the cases were published on 25.11.1980 which was followed by a Declaration under Section 6 of the 1894 Act 18.06.1985. Thereafter, an Award No.23/87-88 appears to have been made in 1986-87. Both the petitioners (M/s. Orchid Realtors (P) Ltd. and M/s. Cosmos Realtors (P) Ltd.) claim that since compensation was not paid to the land owners from whom they purchased the properties, they are entitled to release of land from acquisition by virtue of Section 24(2) of the 2013 Act. It was urged that they are subsequent purchasers for the purpose of which they rely upon a general power of attorney (GPA) dated 07.04.2006 and 4 Wills dated 22.10.2005 [in W.P.(C) 3392/2017], and GPA dated 02.12.2005 [in W.P.(C) 3393/2017], to say that even though they are subsequent purchasers, the right to claim declaration under Section 24(2) of the 2013 Act is a matter of law. They rely upon the recent decision of the Supreme Court in *GNCT v. Manav Dharam Trust and Anr.* [CA No.6112/2017, decided on 04.05.2017]. In the said judgment, the Court stated that subsequent purchasers or assignees or successors-in-interest are “person interested” in compensation in terms of the 1894 Act and the 2013 Act and are entitled to file case that land acquisition proceedings have lapsed.

This Court is mindful of the declaration of law in *Manav*

(*supra*). At the same time, the application of that rule has to be on case-to-case basis. In the present case, the acquisition was completed long ago, about 30 years ago. As to whether the land owners in fact got compensation is unclear. What is, however, clear is that none of the documents relied upon by the petitioners, i.e. the agreement to sell, general power of attorney or so-called registered Will which form part of testamentary documents meant to operate upon the death of its maker recite that the owners had not received compensation. On the other hand, they proceed on the assumption that the lands were never subject to acquisition. Furthermore, the right to receive compensation was not even assigned to the petitioners. In these circumstances, the petitioners cannot be considered as “person interested” under the 1894 and 2013 Act to be entitled to the relief sought. The writ petitions are accordingly dismissed.

S. RAVINDRA BHAT, J

REKHA PALLI, J

MAY 19, 2017/ajk