

\$~18

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

DECIDED ON : 31st JULY , 2017

+ **W.P.(C) 5931/2016 & CM APPL. 24476/2016**

MOHD.HANIF Petitioner

Through : Mr.B.S.Maan, Advocate.

Versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through : Ms.Astha Tyagi, Advocate with
Ms.Sujatha Bagadhi, Advocate for L&B/LAC.
Mr.Ameet Singh, Advocate with Mr.Srinivas,
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. In the instant writ petition, the petitioner claims himself to be recorded owner of the agricultural land to the extent of 1/2 share of Khasra Nos.31/1 (1-8), 31/2 (0-9), 31/3 (0-18), 32/1 (0-16), 32/2 (3-0), 33/3 (0-14), 33/4 (0-5) and 33/5 (0-1) total admeasuring 7 bighas and 11 biswas in the Revenue Estate of Village Satbari, New Delhi (hereinafter referred to as 'suit land'). The petitioner's claim is that acquisition of 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 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 26.05.1987 was made by the Land Acquisition Collector.

3. The petitioner avers 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.

4. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, significantly makes the following admission in Paras (7&8) :

“7. That as per revenue record the possession of the land bearing Khasra No.33/3 (0-14),33/4 (0-5) and 33/5 (0-1) has been taken on 14.07.1987 and the possession of Khasra No. No.32/1 (0-16), 32/2 (3-0) has not been taken.

8. The compensation amount of Rs. 67581.81 as per the award was sent to the Revenue Deposit in the name of the Petitioner. 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.”

5. It is evident that the possession of land in Khasra No.33/3 (0-14), 33/4 (0-5) and 33/5 (0-1) has already been taken over on 14.07.1987 by the respondents. Possession of land in Khasra No.32/1 (0-16), 32/2 (3-0) has not been taken over. Compensation has not paid or tendered to the petitioner on any specific date.

6. 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.

7. Since the possession of land in Khasra No.32/1 (0-16), 32/2 (3-0) has not been taken by the respondents and the compensation of the acquired suit land has not been tendered or paid to the petitioner, the petitioner is entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra Nos.31/1 (1-8), 31/2 (0-9), 31/3 (0-18), 32/1 (0-16), 32/2 (3-0), 33/3 (0-14), 33/4 (0-5) and 33/5 (0-1) vide award No.14/87-88 dated 26.05.1987 to the extent of petitioner's share i.e. 7 bighas and 11 biswas is deemed to have lapsed by virtue of Section 24(2) of the Act.

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

S.P.GARG
(JUDGE)

S. RAVINDRA BHAT
(JUDGE)

JULY 31, 2017 / tr