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

DECIDED ON : 16th AUGUST , 2017

+ **W.P.(C) 5878/2016 & CM APPL.24184/2016**

MAMTA GUPTA Petitioner

Through : Mr.Vishal Maan, Advocate.

Versus

GOVT OF NCT OF DELHI AND ORS Respondents

Through : Mr.Siddharth Panda, Advocate, for
L&B/LAC.

Mr.Shantanu Sagar, Advocate, for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.RAVINDRA BHAT, J. (OPEN COURT)

1. The matter was originally listed on 14.08.2017. Since 14.08.2017 was declared a court holiday, this matter is listed today.
2. Learned counsel for the respondents seek liberty to place on record the counter-affidavit. Liberty granted. Counter affidavit is taken on record.
3. In the instant writ petition, the petitioner claims herself to be recorded owners of the land of Khasra Nos.1038/2 (2-04) min situated in Village Chattarpur, New Delhi to the extent of 2 bighas and 4 biswas. The petitioner's claim is that acquisition of her land (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').

4. The necessary facts are that the suit land along with several others have been notified under Section 4 of the Land Acquisition Act, 1894 (old Act) on 25.11.1980 for the purpose of 'Planned Development of Delhi'. A declaration was issued under Section 6 on 7.6.1985. The acquisition proceedings terminated in Award bearing No.15/1987-88 in which the suit lands too were assessed for compensation. In the circumstances it is contended that despite assessment of compensation, the amount have not been paid to the petitioner with the meaning of expression as held by the Supreme Court in its judgment *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183. It is also contended that despite that, the other eventuality i.e. taking possession of suit land has also not occurred.

5. The respondents i.e. DDA and Govt. of NCT of Delhi have filed their affidavits. Pertinently the appropriate government in its affidavit states that possession of the suit land was not taken although it refutes allegations in respect of compensation and states that the amount was 'deposited' in Revenue Department.

6. The Supreme Court in *Pune Municipal Corporation* case (supra) is categorical that compensation amount has to be actually paid/tendered to the landowners. In the present case the statement that it was deposited in the Revenue Department is ambiguous. Furthermore, the appropriate government clearly admits that the possession of the suit land was never taken. In these circumstances, the Court is of the opinion that petitioner is entitled to the declaration sought. Accordingly, it is held that acquisition of suit lands in Khasra Nos.1038/2 (2-04) min situated in Village Chattarpur, New Delhi to the extent of 2 bighas and 4 biswas vide award No. 15/1987-88 is deemed to have lapsed by virtue of Section 24(2) of the Act.

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

S. RAVINDRA BHAT
(JUDGE)

S.P.GARG
(JUDGE)

AUGUST 16, 2017 / sa

