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

+ W.P.(C) 6170/2016 & CM No.25323/2016 (*for stay*)

ANAND & ORS

..... Petitioners

Through: Mr. Rajesh Gupta with Mr. Pranjal
Saran & Mr. M.C. Verma, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for L&B/LAC.
Mr. Arun Birbal, Adv. for DDA.
Ms. Mini Pushkarna, Adv. for L&B Deptt.,
GNCTD.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

19.07.2017

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1. The petitioners seek a direction for release of lands under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of khasra Nos.125/13/2 (1-3), 125/14 (4-16), 125/15/1 (2-1) and 125/17/1 (4-1) (hereafter referred as the “suit lands”).

2. The suit lands were notified along with several others under Section 4 of the Land Acquisition Act, 1894 on 07.04.2006. A declaration under Section 6 of the Act was made on 04.04.2007. The suit lands and other

5.5.2014, the counsel namely Sh. SK Sangwan duly appeared on behalf of Sh. Mahender Singh and made submissions on the same lines, stated supra which have been duly recorded by the Ld. Reference Court. In view of the specific admissions by Mahender Singh, stated supra, the claim of the petitioners that they are still in physical possession holds no water and the present writ petition is liable to be dismissed with heavy cost. The copies of application with order sheet is annexed herewith as Annexure R-1 (colly).

It is submitted that there has been filed another writ petition bearing No.848/2015 titled Mahender Singh Vs UOI which pertained to same Mahender Singh as that of the father of the petitioners herein however he expired on 19.2.2016 and only claim in the writ petition 848/2015 was interest on compensation for khasra number which was taken possession in the year 2012. It is submitted that not only the writ petition number 848/2015 has become infructuous as the legal heirs of Mahender Singh have sought different relief than that of the prayer of the said writ petition, but also the present writ petition deserves dismissal in view of the specific admissions by late Sh. Mahender Singh regarding possession and compensation. It is pertinent to mention here that the petitioners herein have specifically admitted to have received the compensation but have tried to play clever before the Hon'ble Court while trying to misguide it.

5. That it is submitted that the lands of village Dhichaon Kala were notified vide Notification under section 4 of the Land Acquisition Act dated 7.4.2006 which was followed by Notification under section 6 of the said Act vide Notification dated 4.4.2007. The Award No. 10/08-09 dated 30.12.2008 was also passed in accordance with the law under Section 11 of the Land Acquisition Act, 1894. The actual vacant physical possession of the subject land was taken on the spot in the manner, stated supra and the compensation was also paid

which was duly admitted by the petitioners herein.”

4. The respondents also rely upon the application made for payment of compensation on behalf of the petitioners dated 30.12.2008 which reads as follows:-

“1. That the applicant is the recorded owner of the land share as per revenue records Khasra No.125//17/1 (4-1-0), 125//15/1 (2-1-0), 125//14 (4-16-0), 125//13/2 (1-3-0) situated in Vill. Dichaon Kalan, New Delhi and the same has been acquired by the Govt. vide above award.

2. That there is no other person having any right, title or interest in the said land except the applicant and as such applicant is legally entitled to withdraw the compensation of the above mentioned land acquired by the Government.

3. That the applicant remain in possession of the above mentioned land until the passing award of land and the possession of the said land has been delivered by the applicant to the Government.

It is therefore respectfully prayed that the applicant be allowed to withdraw the compensation of the above mentioned land under protest, in the interest of justice.”

5. The petitioners appear to have applied to the Reference Court, for modifying this order. That application was dismissed and the Court observed as follows:-

“xxxx xxxx xxxx xxxx

It is submitted that the aforesaid piece of land has already been acquired and is in possession of DDA but the payment of compensation in respect of Khasra no. 125/17/1 (4-1) is yet to be realized from LAC. Applicant states that the vacant physical

possession of the entire land including Khasra no. 125/17/1 (4-1) was handed over by applicant to LAC and the same was taken and handed over to DDA on the spot by LAC in the possession proceedings held on 16.04.2010. It is submitted that LAC has not disbursed/released the compensation of land in respect of Khasra no. 125/17/1 (4-1) and withholding the same without any reason. It is further submitted that the Reference Court has already enhanced the compensation in respect of the entire land in question including Khasra no. 125/17/1 (4-1) belonging to applicant. It is prayed, that amount of compensation along with interest in respect of Khasra no. 125/17/1 (4-1) be called from LAC and disbursed to the applicant.

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As per order of 05.10.2013, passed by learned predecessor of the court, the compensation amount has been enhanced in respect of all the Khasras which were acquired by LAC. The remedy for applicant lies in seeking execution of the order dated 05.10.2013, not filing an application under Section 151 CPC for seeking direction to LAC.

A court can exercise inherent power under Section 151 CPC which is necessary for the ends of justice or to prevent misuse of the process of the court. The inherent powers are not to be exercised by the court in all circumstances and where remedy is available under express provision of law.

In the case in hand, the applicant has admittedly not approached the LAC for release of compensation in his favour. The dispute with respect to Khasra no. 125/17/1 (4-1) was also not referred by LAC to this court. In the given circumstances, the application filed by applicant is not maintainable. Same is dismissed. The applicant is at liberty to seek the recourse as available to him as per law. File be consigned to record room.”

7. From the above factual discussion, it is quite clear that not only was possession taken of the suit lands; even compensation, was paid and subsequently enhanced. The petitioners even executed the order which resulted in the decree of payment of compensation.

8. In these circumstances, the alternative three conditions which entitled the land owner for release of acquired land under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 do not come into operation.

The writ petition is dismissed for the above reasons.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 19, 2017

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