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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5976/2016, C.M. APPL.24624/2016**
AVINASH DUGGAL & ORS Petitioners
Through : Ms. Meenu Handa, Advocate.

versus

UNION OF INDIA & ORS Respondents
Through : Sh. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates, for L&B/LAC
Sh. Pawan Mathur, Standing Counsel, DDA.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE S.P.GARG

% **ORDER**
08.08.2017

1. The petitioners seek declaration that by virtue of Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* the acquisition of their lands falling in Khasra nos.18/2/2 (0-11) & (0-13), Village Pansali [hereafter “the suit lands”] is deemed to have lapsed.
2. The acquisition in the present case was triggered by notification under Section 4 of the Land Acquisition Act, 1894 [hereafter “the 1894 Act”] on 27.10.1999 [in respect of 13 biswas] and 21.03.2003 [in respect of 11 biswas]. This was followed by declarations under Section 6 of the 1894 Act on 03.04.2000 and 18.03.2004 respectively. The Collector made the Award nos. 4/2002-03 dated 03.04.2002 and 14-05/2006 dated 17.08.2005 by which the suit lands amongst others

were assessed to market value compensation.

3. The petitioners contend that by reason of enactment of the 2013 Act, especially Section 24(2) thereto, the suit lands are to be declared as free from acquisition.

4. The mandate of Section 24(2) has been repeatedly emphasised in various judgments of the Supreme Court as well as this Court, notably in *Pune Municipal Corporation v. Harakchand Misirimal Solanki* 2014 (3) SCC 183, that if either of the conditions stipulated in Section 24(2) is not fulfilled, i.e. compensation not paid or possession not taken, the acquisition is deemed to have lapsed.

5. The respondents LAC/Appropriate Government in the counter affidavit states as follows:

“5. That it is submitted that the lands of village Pansali were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 18.3.2004. The Award was also passed vide Award No.14/05-06 dated 17.8.2005 whereby besides other lands, the land of the petitioners falling in khasra number 18/2/2 (0-11) was also notified. It is submitted that however the possession of the said land measuring (00-11) could not be taken nor the compensation could have been paid.

6. That it is submitted that the lands of village Pansali were also notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under section 6 of the Act dated 3.4.2000. The Award was also passed vide Award No.4/2002-03 dated 3.4.2002 whereby the lands of the petitioners falling in khasra number 18/2/2 (0-13)

were notified out of which the actual vacant physical possession of 10 biswas could be taken and 3 biswa could not be taken however the compensation was paid to the petitioners for 3 biswa and compensation for 7 biswa could not be paid.”

6. In the opinion of the Court, the above averments amount to a clear admission that possession of the lands in Khasra no.18/2/2 to the extent of 11 biswa could not be taken. The petitioners’ claim has to succeed in respect of this parcel of land. Equally, the petitioners are also entitled to succeed to the extent of the suit land covered by Khasra No.18/2/2 to the extent of 7 biswa, for which compensation was not paid.

7. A declaration that the suit lands to the extent of 11 biswa and 10 biswa (both being different parts of Khasra no. 18/2/2) are free from acquisition is, therefore, made.

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

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 08, 2017/ajk