

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

Date of Decision: September 13, 2017

+ **W.P.(C) 3442/2015 & C.M. 6154/2015**

GITA SABHARWAL Petitioner

Through: Ms. Iti Sharma & Mr. Puneet
Sharma, Advocates

Versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for respondents
No.1 & 2-L&B/LAC
Mr. Sanjeev Sabharwal, Standing Counsel for
respondent No.3-DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J. (OPEN COURT)

1. The petitioner seeks a declaration that the suit lands i.e. Khasra No. 56 min, situated in Revenue Estate of Village Behlolpur, Tehsil Mehrauli, Delhi are free from acquisition by reason of Section 24 (2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (hereinafter referred to as 'the Act of 2013').
2. In the present case, the facts are that notification under Section 4 of the old *Land Acquisition Act* (of 1894) was issued on 23rd June, 1989; the declaration under Section 6 of the old Act was issued on 22nd June, 1990.

After issuing notice and considering the material, the Collector published the award on 19th June, 1992 to determine compensation. Learned counsel for the petitioner argues that neither the compensation was paid nor possession of the suit lands was taken.

3. Respondents i.e. the Government of NCT of Delhi in the counter affidavit states as follows:-

“7. That it is submitted that under the above said award 20 bighas 05 biswa of Khasra no. 56 min was acquired out of which possession of 13 bighas and 04 biswas was taken on 27.12.1990, 4 bighas of land was taken on 6.09.2006 and possession of 2 bigha was taken and handed over to the beneficiary department on 14.06.2006. The possession of remaining land was not taken over as in 16 biswa of land there exist an unauthorized Masjid and remaining 5 biswas of land was excluded from the award. However, compensation could not be paid as there was dispute.”

4. It is quite clear that even though there was some dispute with respect to extent of possession of lands taken, the assertion that compensation was not paid, is unambiguous. In fact, the admission is that compensation could not be paid. However, the stand of Government of NCT of Delhi is utterly vague as to what was the kind of dispute and as to whether deposit under Section 30 & 31 of the old Act was made in accordance with law. Consequently, the benefit of Section 24 (2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* in terms of judgment of Supreme Court in *Pune Municipal Corporation and. Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183 deserves to be granted.

5. In view of the above, it is declared that Khasra No. 56 min to the extent of 5 biswas situated in Revenue Estate of Village Behlolpur, Tehsil Mehrauli, Delhi (*the suit lands*) are free from acquisition and the acquisition is deemed to have lapsed by virtue of Section 24 (2) of the Act of 2013.

6. The writ petition is allowed in above terms. The pending application also stands disposed of.

S. RAVINDRA BHAT
(JUDGE)

SUNIL GAUR
(JUDGE)

SEPTEMBER 13, 2017

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