

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

Date of Decision: September 13, 2017

+ **W.P.(C) 3446/2015 & C.M. 6157/2015 & C.M. 30776/2016**

NEM CHAND SHARMA & ORS. Petitioners

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

Ms. Rishika Arora & Mr. Savi Abbot, Advocate
in C.M. 30776/2016

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.491/1(12-2), admeasuring 09 bighas and 02 biswas, in Revenue Estate of Village Kilokri, 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 12 bighas 02 biswa of Khasra no.491/1 was acquired out of which possession of 11 bighas and 02 biswas was taken on 27.12.1990 and possession of remaining 1 bigha was taken and handed over to the beneficiary department on 09.02.2007. However, compensation could not be paid as there was dispute.”

4. It is therefore evident that even though with respect to possession, the respondent- appropriate Government asserts that Section 24(2) requirements are not satisfied, so far as payment of compensation is concerned, the pleadings are equivocal and ambiguous. It is not clear as to what compensation was paid and if so, who raised the dispute and whether the provisions of Section 30 & 31 of the old Act were satisfied in accordance with the prevailing procedure.

5. Third party- Mr. Mahender Saini and Mr. Rajesh Saini have sought impleadment in these proceedings. They assert rival interests and claim to be persons interested. They rely upon certain entries in the revenue records in support of their claim. This claim is disputed by petitioners who contend that revenue entries were specifically cancelled, as they were made during subsistence of an interim order. This Court is of the

opinion that issue of right, title and entitlement of a party, cannot be gone into in a writ petition. In case the third parties assert any claim, they can have recourse to law; it is open to them to agitate in accordance with law. So far as the claim of the present petitioners is concerned, a declaration of law by the Supreme Court in its judgment reported in *Pune Municipal Corporation and. Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183 is forthright that irrespective of any impediment on account of interim orders by Courts or such like situations, which prevent State Authorities from taking over possession, if within 5 years period stipulated by Section 24 (2) of the Act of 2013, either contingencies occur i.e. neither compensation is paid nor is possession taken in respect of lands, the acquisition is deemed to have lapsed.

6. Consequently, a declaration is issued to the effect that the suit lands i.e. Khasra No.491/1(12-2), admeasuring 09 bighas and 02 biswas, in Revenue Estate of Village Kilokri, Tehsil Mehrauli, Delhi, are free from acquisition and the acquisition is deemed to have lapsed by virtue of Section 24 (2) of the Act of 2013.

7. The writ petition is allowed in above terms. The pending applications also stand disposed of.

S. RAVINDRA BHAT
(JUDGE)

SUNIL GAUR
(JUDGE)

SEPTEMBER 13, 2017

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