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

+ **W.P.(C) 8003/2013**

SATISH KHERA

..... Petitioner

Through : Sh. Shashank Shekhar, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through : Ms. Mini Pushkarna, Standing Counsel
with Ms. Vasundhara Nayyar, Advocate.

Sh. Ajay Verma, Advocate, for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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01.05.2017

In the present proceeding, the writ petitioner claims a direction that the respondents should take possession of the property, i.e. Khasra No.424, measuring 12 Bighas 11 Biswa of Village Khirkee, New Delhi and use it for the purpose for which it was acquired. Apparently, the acquisition was completed and even an award was made, i.e. no.20/87-88.

The respondents have entered appearance. The first respondent submits that the land was acquired by notification dated 05.11.1980 followed-up with a declaration under Section 6 of the Land Acquisition Act, 1894 on 07.06.1985 and that the award was made on 05.06.1987. It was also disclosed that the land was subject matter of previous litigation, i.e. CWP 227/1988. That writ petition was

apparently allowed. The respondents, however, submit that in fact the land belonged to the Ministry of Rehabilitation and the question of reverting it to the land owners did not arise. The owners had sought for a time limit within which possession had to be taken and that in the course of the proceedings, the Court was informed that the award itself provided that transfer could be made by book transfer between the concerned Ministry of Rehabilitation and the requisition agency. Today, the position is that the ownership of the property as public land is undisputed.

The private respondent, i.e. Respondent No.3 contests the proceedings and contests that he is in possession of 500 square yards and that by virtue of the *National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011* [hereafter “the 2011 Act”], which was extended later, all demolition action upon public or encroached lands has been suspended. The said respondent also relies upon the Division Bench ruling of the Court in *Banwari Lal v. UOI* CWP 2365/1990, to say that in such instances as long as the land is public land, if the encroached property is not further built upon, the concerned party or persons in possession of constructed property cannot be disturbed. In view of the above facts, it is evident that the lands which are the subject matter of the present petition are undoubtedly public lands which vested in the government. At the same time, they seem to have been encroached/constructed upon. As at present, by virtue of the 2011 Act, which continues to be in force, the direction sought by the petitioner cannot be granted. The writ

petition is accordingly disposed of.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

MAY 01, 2017/ajk