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

+ W.P.(C) 7241/2013 & CM No.15573/2013

SHANTI DEVI & ORS

..... Petitioners

Through: Mr. Sanjay Parikh with Mr. Aagney
Sail and Ms. Maulshree Pathak, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ajay Digpaul, CGSC for UOI.
Mr. Sanjay Kumar Pathak with Mr. Sunil Kumar
Jha, Ms. Kaomudi Kiran Pathak and Mr. Kushal
Raj Tater, Advs. for R-2 & 5.
Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti
Tyagi, Adv. for L&B/LAC.
Ms. Diviani Khanna, Adv. on behalf of Mr. Ajay
Verma, Sr. Standing Counsel for DDA.
Mr. Gursharan Singh, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

03.08.2017

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1. The petitioners seek declaration that the acquisition of the suit lands i.e. khasra No.299, 300, 305, 306, falling within the Prahlad Vihar Colony in Sector 25, Rohini Residential Scheme, situated on the land of Village Shahibabad Daulatpur, Delhi has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 (hereafter referred to as “the Act”).

2. The facts are that a notification under Section 4 read with Section 17 of the Land Acquisition Act, 1894 was issued on 28.04.1995 and a Section 6 declaration with respect to the notification was issued on 26.04.1996. The award was passed on 24.04.1998.

3. The petitioners contend that respondent authorities did not tender the determined compensation to them and as a consequence by reasons of operation of Section 24(2) of the Act, the acquisition is deemed to have lapsed.

4. The Land Acquisition Collector (LAC) does not dispute the essential facts. It however submits that there are several co-sharers in respect of the suit lands and that compensation in respect to some part of the share was paid. It relies upon the order in *Ram Prakash Kathuria v. Union of India & Ors.* W.P.(C) No.4465/2016 to contend that where certain co-owners have accepted the compensation, Section 24(2) cannot be made to operate and that instead, on parity, the writ petitioner would be entitled to the balance compensation.

5. Learned counsel for petitioners however distinguishes that order by saying that the writ petitioner in that case did not receive part compensation in respect of the fragment compensation in respect of part of his share.

6. This Court is of the opinion that rule enunciated in *Ram Prakash Kathuria* (supra) is squarely applicable. There the petitioner had undoubtedly received the major amount of compensation and had approached the Court contending that the balance amount had not been paid.

In the present case, the fact that third parties have received compensation in respect of their undivided shares in the same lands is not disputed.

7. By parity of reasoning therefore, that the other co-sharers are the third parties cannot be a distinguishing factor; the same rule would apply. The petitioners are at liberty to claim the balance amount of determined compensation and not entitled to the declaration under Section 24(2) of the Act.

For the above reasons, the writ petition is partly allowed in the above terms.

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 03, 2017
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