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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : 17TH AUGUST, 2017

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W.P.(C) 6778/2014 & CM APPL. 16031/14

PRIYANAKA OVERSEAS PVT. LTD. Petitioner

Through : Mr.N.S.Vasisht, Advocate with Mr.Vishal Singh, Ms.Jyoti Kataria Bajaj & Mr.M.P.Bhargava, Advocates.

versus

UNION OF INDIA & ORS Respondents

Through : Mr.Dev P.Bhardwaj, CGSC with Mr.Satya Prakash Singh, Advocate for UOI.

Mr.Sanjay K.Pathak, Advocate with Ms.Koumudi Kiran Pathak, Mr.Sunil K.Jha & Mr.Kushal Raj Tater, Advocate for LAC/L&B.

Mr.Pawan Mathur, Standing Counsel for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

1. The petitioner claim itself to be recorded owner of the land bearing Khasra Nos.1391, 1392, 1393, 1401, 1402, 1403 & 1404 measuring 32 bighas and 16 biswas situated in the Revenue Estate of Village Malikpur Kohi @ Rangpuri, Tehsil Mehrauli, NCT of Delhi (hereinafter referred to as 'suit land') by virtue of seven separate registered Sale Deeds dated 01.12.1994. The petitioner's claim is that acquisition of suit land has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

2. A notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 27.06.1996; it included the suit land. A declaration was issued under Section 6 of the old Act on 10.01.1997. The award

bearing No.02/98-99 dated 07.01.1999 was made by the Land Acquisition Collector.

3. The petitioner avers that pursuant to the award, no compensation has been paid or tendered by the respondents nor possession of the suit land has been taken. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since five year period indicated in Section 24(2) of the Act has ended.

4. It is further averred that the petitioner challenged the impugned notification dated 27.06.1996 issued under Section 4 and 17(1) and (4) of the Act in W.P.(C) No. 4730/1996 titled '*Priyanka Overseas vs. Union of India & Ors.*'. It is informed that the notification dated 27.06.1996 was quashed by this Court in W.P.(C) No.1953/1997 titled '*Vasant Kunj Enclave Housing Welfare Society vs. Union of India & Ors.*' on 23.03.2007. This order was challenged before the Supreme Court in '*Govt. of NCT of Delhi vs. Geeta Batra & Ors.*' (Civil Appeal No. 2997/2012), '*Govt. of NCT of Delhi vs. M/s. Luthra & Co. & Ors.*' (Civil Appeal No.3001/2012) and '*Govt. of NCT of Delhi vs. Vasant Kunj Enclave Housing Welfare Society*' (Civil Appeal No. 4062/2012). These appeals were dismissed by the Supreme Court. It is further informed that the respondents have issued public notice dated 21.11.2012 inviting objection under Section 5-A of the Old Act; it included the suit land. A corrigendum dated 08.07.2013 was issued in continuation of the public notice dated 21.11.2012 informing that the opportunity to file objections under Section 5-A of the Old Act was available only to those land owners who had challenged the acquisition proceedings.

5. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Para (13) :

“13. That without prejudice to the aforesaid plea, it is humbly submitted that as regards status of possession of the subject land, it is humbly submitted that the same could not be taken due to interim stay/ status quo order passed by this Hon’ble Court. So far as payment of compensation is concerned, the same could not be paid for want of possession due to interim order and due to which the compensation amount was not sent by Delhi Development Authority – the beneficiary of the acquisition to the answering respondents.”

6. The Division Bench of this Court in W.P.(C)No.2299/2002 tilted *Santosh Singh & Ors.vs.UOI & Ors*, decided on 13.11.2014, held after overall consideration of the provisions of Section 19, 24(2) and Section 69 of the Act, that the situation where interim orders were made by the court too would fall within the ambit of Section 24(2). In *Santosh Singh & Ors* (Supra) it was held as follows:

“A close analysis of the above provisions would reveal that Section 19 enables the acquisition process by the appropriate Government issuing a declaration, Section 19 (6) is an important exception in that it imposes a limitation on the power itself (i.e limitation for making declaration). In case the time limit is not adhered to, the acquisition lapses. The proviso to Section 19 (6) recognizes that sometime Court intervention by interim orders impede the appropriate Government from issuing declarations. Section 69 (2) enables increased compensation; yet, the explanation provides that if the landowner secures an interim order, the period spent in litigation, particularly when the interim order subsists, cannot be given benefit to him while calculating interest. Thus, limitation of power freshly conferred or created by the Act does not follow a uniform pattern. The object of the provision in question defines how the allusion to interim orders of court are dealt with. However, Section 24 (2) is a special provision that but for its enactment, would have resulted in the operation of the General Clauses Act, 1897 in that all action taken under the old law would have been preserved. It therefore had to be

construed in the context of the old enactment which clearly contemplated exclusion of time at the different stages when interim orders subsisted (i.e to make declaration after preliminary notification and also extended period for making the award). These perspectives are indicative of a contrary interpretation. However, this Court notices that the ruling of the Supreme Court on this aspect is decisive; it consequently binds it.”

7. It is evident that compensation for acquisition of the suit land was not tendered or paid to the recorded owner(s) / petitioner.
8. Petitioner’s plea is being considered / restricted only under Section 24(2) of the Act.
9. As the respondents have not denied that the compensation of the suit land has not been paid and its possession has not been taken, the petitioner is entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra Nos.1391, 1392, 1393, 1401, 1402, 1403 & 1404 to the extent of petitioner’s share i.e. measuring 32 bighas and 16 biswas vide award No.02/98-99 dated 07.01.1999 is deemed to have lapsed by virtue of Section 24(2) of the Act.
10. The writ petition is allowed in the above terms. Pending application (if any) also stands disposed of.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 17, 2017 / tr