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

DECIDED ON : AUGUST 16, 2017

+ **W.P.(C) 6695/2016 & C.M. APPL.27390/2016**

AJIT SINGH & ANR. Petitioners

Through: Sh. Vishal Maan, Advocate.

versus

GOVT OF NCT OF DELHI & ORS. Respondents

Through : Sh. Sanjay Kumar Pathak, Ms. Kaomudi Kiran Pathak, Sh. Sunil Kumar Jha and Sh. Kushal Raj Tater, Advocates, for LAC/L&B/GNCTD.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

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

1. This matter was originally listed on 14.08.2017. Since 14.08.2017 was declared a Court holiday, this matter is listed today.
2. The petitioners claim themselves to be the recorded owners of 6 bighas of land comprised in Khasra Nos.88/1(1-16), 88/2(2-16), 90(1-6), 113/1(0-12), 113(0-12), 181/2(0-13), 195(4-16), 196 (4-16), 197(4-16), 219/1(2-8) & 238/2(2-8) admeasuring 26 bighas and 19 biswas situated in the Revenue Estate of Village Neb Sarai, New Delhi (hereinafter referred to as 'suit land'). The petitioners' 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').
3. It is averred by the petitioners that their father – Shivnarayan was recorded co-owner to the extent of 1/3rd share of the suit land.

Shivnarayan has since expired in 1985 leaving behind three sons namely – Ajit Singh (petitioner No.1), Ran Singh (petitioner No.2) and Vijay Singh. They all became recorded owners to the extent of their 1/9th share each in the suit land. The present petition has been filed for seeking declaration by the petitioners to the extent of their 2/9th share each which comes to 6 bighas in the suit land.

4. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 25.11.1980; it included the suit land. A declaration was issued under Section 6 on 21.05.1985. The award bearing No.12/1987-88 dated 20.05.1987 was made by the Land Acquisition Collector.

5. The petitioners aver that pursuant to the award, neither physical possession of the suit land was taken over by the respondents nor any compensation in respect thereof was ever paid or tendered. 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.

6. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Paras (7 & 8) :

“7. That vast tract of land including the land comprised in Khasra Nos.88/1(1-16), 88/2(2-16), 90(1-06), 113/1(0-12), 113(0-12), 181/2(0-13), 195(4-16), 196(4-16), 197(4-16), 219/1(2-08) and 238/2(2-08) situated in the revenue estate of village Neb Sarai, New Delhi was notified for acquisition for public purpose vide notification dated 05.11.1980 issued under Section 4 of the Old Act followed by declaration issued under

section 6 issued on 21.05.1985 and pursuant to which an award being Award No.12/1987-88 was also made on 20.05.1987 with respect to the acquired land including the land of the petitioner.

That as regards possession it is humbly submitted that as per possession proceeding report possession of the land in question has not been taken. So far as compensation amount is concerned it is humbly submitted statement A is not available in the account branch, due to which it cannot be said whether compensation amount has been paid or not. A circular to trace out the statement 'A' has been issued on 02/03/2006. An NCR has also been lodged with the P.S. Neb Sarai bearing LR No: 0063/2017 dated 07/02/2017. It is humbly requested that the present case may not be decided against the interest of the Govt. till the above documents are traced out.

8. That in view of the above, it is submitted that Section 24(2) of the New Act is neither attracted nor can be applied in the facts of this case and thus, the present acquisition proceedings cannot be deemed to have lapsed qua the land of the petitioners."

7. It is evident that neither possession of the suit land was taken over nor any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s).

8. The Supreme Court in Pune Municipal Corporation case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. That decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the concerned amount and make it available to the land owner, i.e. by way

of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

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 petitioners are entitled to the declaration sought. Accordingly, it is held that acquisition of suit land to the extent of petitioners' share i.e. 6 (six) bighas in Khasra Nos.88/1(1-16), 88/2(2-16), 90(1-6), 113/1(0-12), 113(0-12), 181/2(0-13), 195(4-16), 196 (4-16), 197(4-16), 219/1(2-8) & 238/2(2-8) vide award No.12/1987-88 dated 20.05.1987 is deemed to have lapsed by virtue of Section 24(2) of the Act.

10. The Court, however, clarifies that the question as to the claims of the rival claimants to the title or possession between the petitioners and intervener is in no way reflected by this declaration which is confined to the order under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The writ petition is allowed to the above extent.

11. Pending application also stands disposed of.

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

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 16, 2017 / tr