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

DECIDED ON : AUGUST 09, 2017

+ **W.P.(C) 6869/2014 & CM APPL. 16223/2014**

DEEPAK KUMAR & ORS. Petitioners
Through : Mr. L S Solanki, Advocate

VERSUS

GOVT. OF NCT OF DELHI & ORS Respondents
Through : Mr. Yeeshu Jain, Standing
Counsel with Ms. Jyoti Tyagi,
Advocate for L&B
Mr. Dhanesh Relan with Ms.
Isha Garg, Advocate for DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S. RAVINDRA BHAT, J. (OPEN COURT)

1. The petitioners seek a declaration for the lands falling in Khasra Nos. 389 min and Khasra No. 393 situated in the Village Abadi of Village Gharonda Neem Ka Bangar, to be free from acquisition by virtue of Section 24(2) of the Land Acquisition Act.
2. The appropriate government by a notification dated 13.11.1959 under Section 4 of the old Land Acquisition Act, 1894 sought to acquire the land; including the suit lands. This was followed by the declaration under Section 6 and eventually award bearing No. 6C/71-

72 (Suppl.) was made. The petitioners claim ownership and possession of Khasra Nos. 389 and 393 and submit that neither was compensation for acquisition paid nor was physical possession taken.

3. The petitioners *inter alia* rely upon a reply to an RTI query and submit that they are entitled to the declaration sought in respect of the two khasra nos. 389 and 393.

4. The petitioners have also placed reliance on documents such as electricity bills, water bills and house tax receipts to substantiate their contentions that they are the owner of the said khasra nos. 389 and 393 of the said land.

5. In the counter affidavit of the appropriate Government in para 7, material facts are as follows:-

“7. That the present writ petition is liable to be dismissed as the petitioners have nowhere disclosed about the extent of land in their individual possession rather the petitioners have given misleading and misleading facts by stating land holding as 650 sq. Yards. It is submitted that the petitioners have sought relief by stating the khasra number as 389 min but in the absence of the proper measurement, it could not be ascertained as to petitioners would form part of which min as the said khasra number 389 have more than five min and resultantly also the status of compensation. It is submitted that equally the another khasra number 389 also have more than one min whereas the petitioners have sought relief for the entire khasra i.e. 393.

7A. That the present writ petition is liable to be dismissed as it contained various disputed facts

regarding the ownership of the petitioners and the documents thereto, thus the same cannot be decided in the writ proceedings.”

6. The DDA has filed an affidavit which is *inter alia* to the following effect:-

“Contents of paras 1 are wrong and denied. Petition is devoid of any merits, basis, justification or cause of action and is an abuse and misuse of process of law. The land in question and an area measuring 537 sq. Yds, is encroached as multi storey commercial building known as Plot No. 82 Kiran Jyoti Building, Partap Nagar, Mayur Vihar Phase-I, Delhi-91. The land in question falls in Khasra No. 389 Min and 393 Min of Village Gharonda Neem Ka Bangar. As per record of DDA Register land record. Land bearing Khasra No. 389 measuring 10 Bighas 7 Biswas and 393 measuring 2 Bighas 11 Biswas of Village Gharonda Neem Ka Bangar has been acquired vide Award No. 6-C/1971-72 Suppl. And 6-A/71-72 dated 13.5.77/15.4.72 and the same has been placed at the disposal of the answering Respondent, vide Notification under Section 22(i) of the Act, No. F8(31)78/L&B dated 24.7.78 of D.D. Act and F8 (49) L&H dated 2.5.72.”

7. It is evident from the above pleadings that the petitioners’ claim is for a declaration in respect of two specific khasra Nos. 389 min and 393 min, Village Gharonda Neem Ka Bangar. All the materials placed on record to substantiate their claim to ownership and entitlement pertain to khasra Nos. 389 and 393. All that the petitioners have to back their claim for the declaration are collateral documents evidencing occupation such as water bills, electricity bills, house tax receipts etc. and special Power of Attorney, agreement to

sell etc. However, the petitioners' occupation, or that they are as 'persons interested' in the sense understood in law, in the opinion of the Court, has not been established. The petitioners' ownership has not been established with respect to any of the lands that they seek a declaration for. It is not clear as to whether the title to the original lands was made out to the petitioners and if so, under what circumstances, is he entitled to claim compensation as 'person interested.'

8. In these circumstances, the Court is of the opinion that petitioners are not entitled to the relief they seek and the petition is therefore dismissed.

**S. RAVINDRA BHAT
(JUDGE)**

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

AUGUST 09, 2017 / P