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

Decided on: 08.08.2017

+ W.P.(C) 7871/2014 & CM No.18467/2014

AJIT SINGH MANN

..... Petitioner

versus

UNION OF INDIA & ORS

..... Respondents

+ W.P.(C) 7893/2014

KUSHAL KUMAR GOGA

..... Petitioner

versus

UNION OF INDIA & ORS

..... Respondents

+ W.P.(C) 7898/2014 & CM No.18505/2014

AZAD SINGH

..... Petitioner

versus

UNION OF INDIA & ORS

..... Respondents

Present: Mr. K.C. Aggarwal with Mr. Vishvanath Aggarwal, Advs. for petitioner.
Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Adv. for L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. All these petitions were heard separately but a common order is made for the sake of convenience.
2. The claim in all these petitions is for declaration that the acquisition in respect of the suit lands are deemed to have lapsed.
3. The common facts are that the petitioners' lands along with several other land owners, properties, were notified for the purpose of acquisition under Section 4 of the Land Acquisition Act, 1894 on 27.10.1999. The Section 6 declaration was issued on 03.04.2000. After considering the objections of the land owners and also the evidence brought on record, the Collector published his award assessing the acquired lands to compensation on 15.02.2003.
4. All writ petitioners state that since compensation was not paid in respect of their lands or which were acquired, 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") applies and that this Court should declare that the acquisitions have lapsed.
5. For the purpose of convenience, the following chart, setting out the extent of land in respect of which the petitioners claim the ownership, and entitlement to the relief is set out as under:

Writ Petition No.	Khasra No.	In question	Total in Kh	Total acquired	Vesting in Gaon Sabha	
7871	19/23	1-0	4-16	4-16	4-16	
7893	19/18	1-0				Stay 1- 16 1-16

					2-16	out of 2-16
7898	19/18	0-16	4-16	2-16 vide this award		
7898	19/19	1-0	4-16			2 out of 4.8 (42%)
7898	19/19	1-0				

6. The respondents broadly outline two objections to the relief. It is contended that the petitioner in W.P.(C) No.7871/2014 is not entitled to the relief because the lands in respect of which he seeks the declaration, in fact, belongs to the Gaon Sabha. So far as the other two proceedings i.e. W.P.(C) Nos.7893/2014 and 7898/2014 are concerned, it is contended that the petitioners cannot seek relief because they are not the recorded owners and that they rely upon unregistered documents, which cannot confer any title. It is argued in this regard that the concept of “persons interested” applies only in case of those who acquire title through properly executed and registered documents.

7. The counter affidavits in all these cases of the Land Acquisition Collector (LAC), to the extent it is relevant is extracted below:

(i) W.P.(C) No.7871/2014

“6. That it is submitted that the lands of village Pansali were notified vide Notification under section 4 of the Land

Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under section 6 of the Act dated 3.4.2000. The Award was also passed vide Award No. 4A/2002-03 dated 15.3.2003. It is further submitted that the possession of the land was taken on 12.5.2000 however as the land was shown in the name of Gram Sabha, the compensation could not be paid for land measuring 4-16 falling in khasra number 19/23 wherein the petitioner has the share of one bigha only.”

(ii) W.P.(C) No.7893/2014

“6. That it is submitted that the lands of village Pansali were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under section 6 of the Act dated 3.4.2000. The Award was also passed vide Award No. 4A/2002-03 dated 15.3.2003. It is further submitted that the possession of the land was taken on 12.5.2000 however as the land was shown in the name of Gram Sabha, the compensation could not be paid for land measuring 2-16 falling in khasra number 19/18 wherein the petitioner has the share of one bigha only.”

(iii) W.P.(C) No.7898/2014

“6. That it is submitted that the lands of village Pansali were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under section 6 of the Act dated 3.4.2000. The Award was also passed vide Award No. 4B/04-05 dated 24.5.2004. It is further submitted that the possession of the land was taken on 12.5.2000 however as the land was shown in the name of Gram Sabha, the compensation could not be paid for land falling in khasra number 19/19 (2-0) and 19/18 min (0-16). It is further submitted that the petitioner has however admitted at page 6 that one bigha of land out of khasra number 19/19 was purchased through unregistered documents of sale

such as GPA, Agreement to Sell, Affidavit etc. dated 9.5.88. It is submitted that such documents are inadmissible for the purpose of conferring any right, title or interest to the petitioner for invoking writ jurisdiction of the Hon'ble Court and are also liable to be impounded as per Stamp Act."

8. It is quite evident therefore that the LAC has admitted that compensation in respect of the suit lands to the extent of 1 bigha in each petition was not paid. As to what is meant by "payment" has been explained in one of the earlier authorities of the Supreme Court in relation to Section 24(2) of the Act i.e. *Pune Municipal Corporation and Anr. v. Harak Chand Misrimal Solanki and Ors. (2014) 3 SCC 183*, where it was clearly stated that "payment" connotes the aspect of tendering to the land owner and in the event of refusal by him or her, its deposit in the Court by the Collector. In the present case, therefore, there is a clear admission that the respondents did not pay the land owners the compensation they were entitled to.

9. So far as the respondent's objections with respect to the petitioner's entitlement in W.P.(C) No.7871/2014 is concerned, the Court notices that the revenue document relied upon i.e. *Khatauni* for the period 1984-85 clearly records that the petitioner's vendor, was the owner of the property. The petitioner acquired the property through registered sale deed on 28.06.1988. Upon these facts, the Court is unable to sustain the respondent's objection that the property had vested in the Gaon Sabha since the award determined the compensation in its favour. For the sake of proper appreciation of the facts, the Gaon Sabha was impleaded as a party i.e. the fifth respondent. The Block Development Officer representing the Gaon Sabha has filed an affidavit. The affidavit does not disclose the date of vesting of the land – after it is assumed to be on the basis that the conditions

of grant violated the statutory requirement of ejectment proceedings under Section 81, had to be initiated, within the period of limitation. There is silence on these aspects in the BDO's affidavit. Consequently, it has to be held that the petitioner's claim cannot be defeated on this ground.

10. As far as the objections with respect to the *locus standi* of the petitioners in W.P.(C) Nos.7893/2014 & 7898/2014 are concerned, no doubt these petitioners claim the relief from this Court on the basis of an unregistered agreement to sell and General Power of Attorneys. In these cases, the Court notices that these documents were executed almost three decades back. The judgment in *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana (2012) 1 SCC 656* is clear that unregistered Power of Attorneys and such like conveyance documents, would have only prospective effect.

11. Having regard to these facts, the Court is of the opinion that the petitioners' rights as subsequent purchasers and secondly "persons interested", prior to the acquisition has to be recognized.

12. In the light of the above discussion, these petitions are entitled to succeed. It is accordingly declared that the acquisition in respect of the suit lands i.e. Khasra Nos.19/18, 19/19 and 19/23, Village Pansali are deemed to have lapsed.

The writ petitions are allowed in the above terms.

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 08, 2017/kks