

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

Date of Decision: September 11, 2017

+ **W.P.(C) 7614/2016 & CM 31335/16**

SARDAR MOHAMMAD Petitioner
Through: Mr. Ram Kumar, Mr. K.K. Nangia
and Mr. R.B. Sisodia, Advocates

Versus

GOVT OF NCT OF DELHI AND ORS Respondents
Through: Mr. Siddharth Panda, Advocate for
respondents No.1 & 2
Mr. Sanjeev Sabharwal, Standing Counsel with
Ms. Ridhi, Advocate for respondent-DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J. (OPEN COURT)

1. Learned counsel for respondents-L&B/LAC and DDA seek liberty to place on record their respective counter affidavits. Liberty granted. Both the counter affidavits are taken on record with consent of counsel for petitioner.

2. The petitioner seeks a declaration that the 1/3rd share of the suit lands i.e. Khasra Nos. 454, 453, 459, 460, 461, 462 situated in the revenue estate of Village Sayoor Pur, District-South, New Delhi is free from acquisition by reason 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 of 2013').

3. In the present case, the facts are that the suit lands were notified on 25.11.1980 under Section 4 of the old *Land Acquisition Act* (of 1894) and a declaration under Section 6 was issued on 20.05.1985. Later on, notices were issued to the persons interested and the land owners and the Award was published on 14.05.1987 assessing all lands to compensation. The petitioner contends that since neither possession of the suit lands was taken nor was compensation paid in accordance with the law, the acquisition of the suit lands is deemed to have lapsed.

4. The respondent-Appropriate Government in its counter affidavit states that the possession of the suit lands was taken over on 14.07.1987.

With respect to compensation, it reads as follows: -

“8.....*The compensation with respect to the Khasra Nos.454(4-16), 459 (5-18), 460 (4-16), 461 (4-16) and 462 (3-14) Total 24-Bighas, has been paid to the recorded owners) except Shibbi) as under: -*

NAME	AWARD NO.	AMOUNT	REMARKS
<i>Chau Khan</i>	<i>10/87-88</i>	<i>224936.32</i>	<i>Paid ch. No.82862 dated 30.09.1987</i>
<i>Shibbi</i>	<i>10/87-88</i>	<i>224936.32</i>	<i>Sent in RD</i>
<i>Bhagirath Lal</i>	<i>10/87-88</i>	<i>25071.3</i>	<i>Paid vide Ch.No.82860 dated 30.09.1987</i>
<i>Kalawati</i>	<i>10/87-88</i>	<i>31163.5</i>	<i>Paid vide Ch.No.82861 dated 30.09.1987</i>
<i>Bhagirath Lal</i>	<i>10/87-88</i>	<i>25071.3</i>	<i>Paid vide Ch.No.82860 dated 30.09.1987</i>
<i>Kalawati</i>	<i>10/87-88</i>	<i>31163.5</i>	<i>Paid vide Ch.No.82861 dated 30.09.1987</i>
<i>Bhagirath Lal</i>	<i>10/87-88</i>	<i>25071.3</i>	<i>Paid vide</i>

			<i>Ch.No.82860 dated 30.09.1987</i>
<i>Kalawati</i>	<i>10/87-88</i>	<i>31163.5</i>	<i>Paid vide Ch.No.82861 dated 30.09.1987</i>
<i>Bhagirath Lal</i>	<i>10/87-88</i>	<i>8357.1</i>	<i>Paid vide Ch.No.82860 dated 30.09.1987</i>
<i>Kalawati</i>	<i>10/87-88</i>	<i>10387.69</i>	<i>Paid vide Ch.No.82861 dated 30.09.1987</i>
<i>Bhagirath Lal</i>	<i>10/87-88</i>	<i>8357.1</i>	<i>Paid vide Ch.No.82860 dated 30.09.1987</i>
<i>Kalawati</i>	<i>10/87-88</i>	<i>10387.68</i>	<i>Paid vide Ch.No.82861 dated 30.09.1987</i>
<i>Bhagirath Lal</i>	<i>10/87-88</i>	<i>8357</i>	<i>Paid vide Ch.No.82860 dated 30.09.1987</i>
<i>Kalawati</i>	<i>10/87-88</i>	<i>10381.69</i>	<i>Paid vide Ch.No.82861 dated 30.09.1987</i>

9. That compensation with respect to the Khasra Nos.453(1-2) has been sent to Revenue Deposit as under: -

<i>NAME</i>	<i>AWARD NO.</i>	<i>AMOUNT</i>	<i>REMARKS</i>
<i>Sanai</i>	<i>10/87-88</i>	<i>373956.64</i>	<i>Sent in RD</i>
<i>Chau Khan</i>	<i>10/87-88</i>	<i>10309.59</i>	<i>Sent in RD</i>
<i>Shibbi</i>	<i>10/87-88</i>	<i>10309.56</i>	<i>Sent in RD</i>
<i>Mohd. Yusuf</i>	<i>10/87-88</i>	<i>2577.40</i>	<i>Sent in RD</i>
<i>Mohd. Kha</i>	<i>10/87-88</i>	<i>2577.40</i>	<i>Sent in RD</i>
<i>Mohd. Sharif</i>	<i>10/87-88</i>	<i>2577.38</i>	<i>Sent in RD</i>

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5. In view of the above, the Court is of the opinion that there is an admission that the acquisition of suit lands to the extent it is covered by Khasra No. 453 (1-2) is deemed to have lapsed by virtue of operation of Section 24 (2) of the Act of 2013. Though the Appropriate Government states that the possession was taken on 14.07.1987, it's statement that the compensation was deposited, does not comply with the letter of the law as interpreted by the Supreme Court in *Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183. Accordingly, this Court hereby declares that Khasra No.453 (1-2), situated in the revenue estate of Village Sayoor Pur, District-South, New Delhi is free from acquisition by reason of Section 24 (2) of the Act of 2013.

6. The writ petition is allowed in above terms. The pending application also stands disposed of.

**S. RAVINDRA BHAT
(JUDGE)**

**SUNIL GAUR
(JUDGE)**

SEPTEMBER 11, 2017

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