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

+ **W.P. (C) 7716/2014, CM APPL.20501/2014, 42522 & 45210/2016**

MOHD. MAQBOOL & ANR. Petitioner

Through: Ms. Maldeep Sidhu, Advocate.

versus

GOVT. N.C.T. OF DELHI & ORS. Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for
L&B/LAC with Ms. Jyoti Tyagi, Advocate.

Mr. Arjun Pant, Advocate.

W.P. (C) 8912/2014, CM APPL.20726/2014 & 9147/2017

SHAKRUDDIN & ORS Petitioners

Through: Mr. Amarjit Singh Bedi with Mr. Varun
Chandiok, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Siddharth Panda, Counsel for
L&B/LAC.

Ms. Sarita Panda, proxy counsel for DDA.

W.P. (C) 573/2015, CM APPL.976/2015

JAN MOHAMMAD Petitioner

Through: Ms. Maldeep Sidhu, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Siddharth Panda, Counsel for
L&B/LAC.

Mr. Pawan Mathur, Standing Counsel for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

11.04.2017

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The petitioners seek relief by way of direction that acquisition of
their lands (Khasra Nos. 315 (155-13), 331 (2-17), 341 (2-10), 343 (4-16)

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and 344 (4-16) of Village Pul Pehlad, New Delhi which was subject of Award No.63/1982-83 had elapsed and the declaration to that effect be made under Section 24 (2) of the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as “the Land Acquisition Act, 2013”).

The brief facts are that the suit lands were covered by the Notification under Section 4 of the Act issued on 10.11.1960; declaration under Section 6 was published on 06.01.1969. Notices were apparently issued to the land owners and the suit lands were covered by Award No.63/1982-83. Apparently, the petitioner had approached this Court and challenged the acquisition. The Court had directed maintenance of status quo and required the respondents to not dispossess the petitioners. The petitioners submit in these circumstances that since the possession was not taken nor was compensation paid, the acquisition had elapsed.

It is also submitted that the judgment in *Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors.* (2014) 3 SCC 183 and the other subsequent judgment of the Supreme Court which have examined the effect of absence of provisions similar to the proviso to Section 11A and Section 6 of the Land Acquisition Act, 2013 is pending consideration before the larger three Judge Bench.

The respondents, i.e., LAC in the counter affidavit avers that the lands were acquired for the purpose of land development of Delhi and that substantial parts thereof was in fact taken over after the Award on 04.03.1983. It is also stated that only the lands covered in Khasra No.315 (to the extent of 3-10) could not be taken over because of the interim order made by this Court. The respondents also contend that the possession of lands which were taken over was made over to the DDA for development.

As far as compensation is concerned, the position of the GNCTD is that for two Khasras, i.e., Khasra Nos.331 and 341, the payments were made to the petitioner. It is submitted that with respect to Khasra No.315 (to the extent of 3-10 bighas), the amounts were remitted to the Court of the ADJ under Section 30/31. As far as Khasra nos.343 and 344 are concerned, it is stated that the lands belonged to the custodian; consequently, there was no question of depositing compensation.

It is evident from an overall reading of the materials on record that as to the nature of possession, and payment of compensation, the petitioners are clearly entitled to reliefs in respect of Khasra no.315 (to the extent of 3-10 bighas) as well as Khasra nos.343 & 344. Though, the respondents have stated and averred in the pleadings that Khasra Nos.343 & 344 belong to the custodian, neither Notification under Section 4 nor the declaration under Section 6, nor indeed the Award, disclosed the ownership. On the other hand, this Court in a previous order in respect of the identical land Khasra no.343 (4-16) to the extent of 1/17th share, had directed release in the following terms in *Rajan Sharma & Ors. vs. Government of NCT of Delhi & Ors.*, (W.P.(C) 8416/2014, decided on 07.04.2015): -

“1. The petitioners seek the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as ‘the 2013 Act’) which came into effect on 01.01.2014. A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as ‘the 1894 Act’) in respect of which Award No. 63/1982-83 dated 31.01.1983 was made, inter alia, in respect of the petitioners’ land comprised in Khasra Nos. 337 (4-16), 340 (4-16) and 343 (4-16) measuring 14 bighas and 8 biswas (1/17th Share) in all in village Pul Pahladpur shall be deemed to have lapsed.

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4. As a result, the petitioners are entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject land are deemed to have lapsed. It is so declared.

5. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.”

The judgment of the Supreme Court in *Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors.* (2014) 3 SCC 183 and the other judgments that have followed it, i.e.,

(1) *Union of India and Ors v. Shiv Raj and Ors*: (2014) 6 SCC 564;

(2) *Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors*: Civil Appeal No. 8700/2013 decided on 10.09.2014;

(3) *Surender Singh v. Union of India & Others*: WP(C) 2294/2014 decided on 12.09.2014 by this Court; and

(4) *Girish Chhabra v. Lt. Governor of Delhi and Ors*: WP(C) 2759/2014 decided on 12.09.2014 by this Court.

are clear in that the declaration in the acquisition proceedings so far as they pertain to Khasra no.315 (3 Bigha 10 Biswas) and 343 & 344 are deemed to have elapsed. So far as the question of inability of the State to take over possession on account of pendency of proceedings and stay orders is concerned, the law as it exists is clear and has been enunciated in the judgment cited by the petitioners. In the event of any change, doubtlessly, the respondents would be entitled to the relief in accordance with law.

The writ petitions are allowed.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 11, 2017/vikas/