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

+ W.P. (C) 4442/2015, CM APPL.8061/2015

JAIVEER PAWAR & ORS Petitioners

Through: Mr. Sukhbir Sejwal, Advocate.

versus

LAND ACQUISITION COLLECTOR (SOUTH) & ANR

..... Respondents

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

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE I.S. MEHTA

ORDER

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17.04.2017

The present petition seeks a declaration that the Notification of 1959 under Section 4 of the repealed Land Acquisition Act and the subsequent Award made on 24.11.1967 is deemed to have elapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as “Act of 2013”).

The petitioners are the grandsons/successors of the original recorded owner Tikka who was the owner and all the petitioners claim to be the owner by virtue of being legal heirs of the recorded owner Devi Ram, his father, along with the others of Khasra

Nos.755/241(1 Bigha 13 Biswas) and Khasra nos.622/242 (00-14 Biswas) of Village Shah Pur Jat. Notification under Section 4 was issued on 13.11.1959 and the declaration under Section 6 on 23.03.1965. Award No.2034/67-68 was made on 24.11.1967. Apparently, possession was taken from the petitioners on 01.12.1980 in respect of one Khasra Nos.755/241 (1 Bigha 13 Biswas). The petitioners urged that compensation as envisioned under the Act of 2013 was never tendered to the then recorded owners. The petitioners/land owners were dispossessed on different dates.

In these proceedings, the petitioners contend that the mandate and letter of Section 24 (2) was never complied with and, therefore, upon the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, by virtue of its operation, the Notifications and Award deemed to have elapsed.

The respondents contend that possession was taken long back and that the petitioners never challenged it. They also urged that the petitioners' claim to maintain the proceedings is suspect in view of the ruling in *KN Aswathnarayana Setty (D) Tr. LRs. & Ors. v. State of Karnataka & Ors.* AIR 2014 SC 279 as their title to the subject land was never asserted, or in any case, has not been established.

The materials placed on record in the form of the revenue documents show that the original land owner was one Tikka. Undoubtedly, the revenue documents relied upon by the petitioners were issued after they were dispossessed. Therefore, there is not much

controversy as to whether possession was taken or not - on that score, the petitioners do not have a case on merits. However, as regards the question as to whether the present proceedings are maintainable, the Court finds that the petitioners' father Devi Ram was one of the notified claimants in the proceedings before the Land Acquisition Collector that resulted in an Award based upon the determination of compensation. The affidavit in support of this petition clearly states that the said Devi Ram is the father of the present petitioners. In the circumstances, the objection as to maintainability cannot be sustained. It is overruled.

The counter affidavit of the appropriate Government/GNCTD is absolutely silent as to whether the compensation was tendered - as understood by the Act of 2013 to the then land owner. Indeed it is also silent as to when the compensation was paid or even deposited. Therefore, the requirement of Section 24 (2) stands fulfilled in view of the declaration of law by the Supreme Court in

(1) *Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors*: (2014) 3 SCC 183;

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

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

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

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

Subsequent decision of the Supreme Court in *Bharat Kumar v. State of Haryana*, 2014 (6) SCC 586 has also reiterated the above position.

In the light of the above discussion, it is declared that the subject land, i.e., Khasra Nos.755/241 (1 Bigha 13 Biswas) and Khasra nos.622/242 (00-14 Biswas) of Village Shah Pur Jat, New Delhi are deemed to have elapsed under Section 24 (2) of the Act of 2013. Consequential direction is issued to the respondents to take appropriate steps within a year towards acquisition of land if they so choose, under the Act of 2013, failing which possession of the said land shall be returned to the petitioners.

Writ Petition is partly allowed in the above terms.

S. RAVINDRA BHAT, J

I.S. MEHTA, J

APRIL 17, 2017

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