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

+ **W.P.(C) 8140/2014 & CM No.18978/2014**

DAYACHAND & ORS. Petitioners

Through: Mr. Brajesh Kumar Singh with
Mr. Amit Pratap Shaunak and Mr. Saurabh
Agarwal, Advs.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Ajay Digpaul, CGSC with
Ms. Madhuri Dhingra, Adv. for UOI.
Ms. Shobhana Takiar, Adv. for DDA.
Mr. Yeeshu Jain, Adv. for Mr. Siddharth Panda,
Adv. for L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

12.09.2017

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1. The petitioners claim a direction that the suit lands bearing Khasra No. 59//14 (4-16), 17 (2-16), 25 (0-14), 15 (4-16), 16 (3-12), 33//4/1 (1-12), 4/2 (0-12) and 4/3 (2-12) admeasuring 21 bighas 12 biswas situated at the revenue estate of village Pehladpur Bangar, Delhi are free from acquisition.
2. The land in the present case including the suit lands was notified for acquisition under Section 4 of the Land Acquisition Act, 1894 on 21.03.2003; the declaration was made on 19.03.2004. The public purpose

stated was for the development of the Rohini Residential Scheme and planned development of Delhi. After the declaration, the Land Acquisition Collector (LAC) considered all the relevant materials and made award on 12.07.2005 determining the compensation. The petitioners have approached this Court for a declaration that in terms of 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”), the acquisition is deemed to have lapsed because within the five year period preceding the commencing of the Act, the compensation was not paid and possession too was not taken.

3. The appropriate Government through the LAC has filed its counter affidavit. The relevant extract of the counter affidavit on this aspect reads as follows:

“5. That the petitioners have not come to this Hon’ble Court with clean hands. The petitioners are guilty of ‘Supresso Vari and Suggestio falsi’ therefore they are not entitled to seek any relief from this Hon’ble Court.

6. That as per the records, the land in question bearing Khasra No. 59//14 (4-16), 17 (2-16), 25 (0-14), 15 (4-16), 16 (3-12), 33//4/1 (1-12), 4/2 (0-12) and 4/3 (2-12) admeasuring 21 bighas 12 biswas situated at the revenue estate of village Pehladpur Bangar, Delhi (Annexure P-5 of the Writ Petition) were notified under section 4 of Land Acquisition Act on 21.03.2003 followed by declaration under section 6 of Land Acquisition Act on 19.03.2004 for public purpose namely for “Rohini Residential Scheme” under Planned Development of Delhi. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and

claims were also filed by the interested persons including the petitioners. The then Land Acquisition Collector passed Award No. 06/2005-06/DC (N-W) dated 12.07.2005 after considering the claims of the claimants.”

4. By virtue of Section 24(2) of the Act as interpreted by the Supreme Court in *Pune Municipal Corp. & Anr. v. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183, the acquisition of any land is deemed to have lapsed in the eventuality of either contingency, i.e. non-payment of compensation in the five year period preceding the enactment or if possession is not taken within the same period. In this case, it is clear that possession was taken on 12.07.2005 and compensation was paid in respect of khasra nos. 59//14 (4-16), 17 (2-16), 25 (0-14), 15 (4-16), 16 (3-12), 33//4/1 (1-12), 4/2 (0-12) and 4/3 (2-12) admeasuring 21 bighas 12 biswas situated at the revenue estate of village Pehladpur Bangar, Delhi to the land owners in question.

In these circumstances, the writ petition has to fail and is accordingly dismissed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 12, 2017
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