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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
DECIDED ON : 17TH AUGUST , 2017

+ **W.P.(C) 4431/2015 & CM APPL. 8046/2015**
NIRMALA JAIN & ANR Petitioners
Through : Ms.Rachna Agrawal, Advocate.

versus

UNION OF INDIA & ORS Respondents
Through : Ms.Poonam Kalia, Advocate for R1 & R2.
Mr.Sanjay K.Pathak, Advocate with Ms.Koumudi Kiran
Pathak, Mr.Sunil K.Jha & Mr.Kushal Raj Tater,
Advocate for LAC/L&B.
Mr.Dhanesh Relan, Advocate with Ms.Isha Garg &
Ms.Gauri Chaturvedi, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

1. The petitioners claim themselves to be recorded owners of land in Khasra Nos.1269(4-16), 1272(4-16), 1273(4-16), 1285 (4-16), 1286(4-16), 1287(4-16), 1288(4-16), 1292(4-16) & 1284(4-16) to the extent of their 27/576 share i.e. admeasuring 2 bighas and 0.5 biswas, out of total measuring 43 bighas and 4 biswas situated in the Revenue Estate of Village Malikpur Kohi @ Rangpuri, Tehsil Vasant Vihar, New Delhi (hereinafter referred to as 'suit land'). The petitioners' claim is that acquisition of suit land has lapsed by virtue 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').

2. A notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 27.06.1996; it included the suit land. A declaration was issued under Section 6 on 10.01.1997. The award bearing No.02/98-99/SW dated 06.01.1999 was made by the Land Acquisition Collector.

3. The petitioners aver that pursuant to the award neither possession of the suit land was taken over by the respondents nor any compensation in respect thereof was ever paid or tendered. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since five year period indicated in Section 24(2) of the Act has ended.

4. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Para (9) :

“9. That as regards possession, it is humbly submitted as per the possession proceedings report, possession of the land in question except khasra No. 1272 (4-16) and 1273 (4-16) could not be taken due to stay from this Hon'ble Court. So far as khasra No. 1272 (4- 16) and 1273 (4-16) are concerned, as per possession proceeding dated 31.12.2013 possession was taken. With regard to compensation, it is submitted that the compensation amount has not been received from requisitioning authority and thus, the compensation amount could not be paid to the interested persons.”

5. The Division Bench of this Court in W.P.(C)No.2299/2002 tilted *Santosh Singh & Ors.vs.UOI & Ors*, decided on 13.11.2014, held after overall consideration of the provisions of Section 19, 24(2)

and Section 69, of the Act that the situation where interim orders were made by the court too would fall within the ambit of Section 24(2). In *Santosh Singh & Ors* (Supra) it was held as follows:

“A close analysis of the above provisions would reveal that Section 19 enables the acquisition process by the appropriate Government issuing a declaration, Section 19 (6) is an important exception in that it imposes a limitation on the power itself (i.e limitation for making declaration). In case the time limit is not adhered to, the acquisition lapses. The proviso to Section 19 (6) recognizes that sometime Court intervention by interim orders impede the appropriate Government from issuing declarations. Section 69 (2) enables increased compensation; yet, the explanation provides that if the landowner secures an interim order, the period spent in litigation, particularly when the interim order subsists, cannot be given benefit to him while calculating interest. Thus, limitation of power freshly conferred or created by the Act does not follow a uniform pattern. The object of the provision in question defines how the allusion to interim orders of court are dealt with. However, Section 24 (2) is a special provision that but for its enactment, would have resulted in the operation of the General Clauses Act, 1897 in that all action taken under the old law would have been preserved. It therefore had to be construed in the context of the old enactment which clearly contemplated exclusion of time at the different stages when interim orders subsisted (i.e to make declaration after preliminary notification and also extended period for making the award). These perspectives are indicative of a contrary interpretation. However, this Court notices that the ruling of the Supreme Court on this aspect is decisive; it consequently binds it.”

6. It is evident that compensation for acquisition of the suit land was not tendered or paid to the recorded owner(s)/ petitioners.

7. As the respondents have not denied that the compensation of the suit land has not been paid, the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra Nos.1269(4-16), 1272(4-16), 1273(4-16), 1285 (4-16), 1286(4-16), 1287(4-16), 1288(4-16), 1292(4-16) & 1284(4-16) to the extent of petitioners' share i.e. 27/576 i.e. admeasuring 2 bighas and 0.5 biswas vide award No.02/98-99/SW dated 06.01.1999 is deemed to have lapsed by virtue of Section 24(2) of the Act.

8. The writ petition is allowed in the above terms. Pending application also stands disposed of.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 17, 2017 / tr