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

DECIDED ON : 11th JULY , 2017

+ **W.P.(C) 4607/2015 & CM APPL. 8337/2015**

RAM KISHAN & ORS Petitioners

Through : Mr.Anuroop P.S., Advocate with
Mr.Sultan Choudhary, Advocate.

versus

UNION OF INDIA & ANR Respondents

Through : Ms.Ruhi Chopra, Advocate for R2.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

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

1. In the instant writ petition, the petitioners claim their predecessor-in-interest to be recorded owner of the agricultural land of Khasra No.419/305 ad measuring 8 bighas and 11 biswas in the Revenue Estate of Village Chilla Saroda Bangar, Delhi. The petitioners' claim is that acquisition of their lands (hereinafter referred to as '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. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 17.11.1980; it included the suit land. A declaration was issued under Section 6 on 29.09.1981. The award bearing No.39/82-83 dated 13.09.1982 was made by the Land Acquisition Collector.

3. The petitioners aver that their predecessor-in-interest late Sh.Rumal was the recorded bhoomidar of the suit land. After his death, it came into possession of late Sh.Sheo Raj. On his demise, it came in the shares of the petitioners in equal proportions and they are in possession thereof since then. Pursuant to the award, possession of the suit land was taken over by the respondents, however, compensation in respect thereof was never 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, significantly makes the following admission :

“The facts are however quite different as the physical possession of the subject land was duly taken on 1.10.1982 on the spot and handed over to the DDA by preparing possession proceeding on the spot. The part compensation has also been paid to some of the share holders in the said land measuring (8-11) however it is submitted that the compensation to the share of Sh.Rumal has not been paid.”

5. It is further stated that payment of majority of compensation to the recorded owners has been made and the case falls under proviso to Section 24(2) of the Act.

6. It is evident that the possession of land in Khasra No.419/305 has been taken so far. The counter-affidavit does not reveal if any

compensation for acquisition of the land in Khasra No.419/305 was paid to the recorded owner.

7. The Supreme Court in Pune Municipal Corporation case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. That decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the concerned amount and make it available to the land owner, i.e. by way of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

8. During the course of arguments, the petitioners confined their relief to the extent of their 1/12th share in the suit lands. Accordingly, it is held that acquisition of suit land in Khasra No.419/305 vide award No.39/82-83 dated 13.09.1982 is deemed to have lapsed by virtue of Section 24(2) of the Act to the extent of 1/12th share of the petitioners.

9. The writ petition is allowed in the above terms.

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

**S. RAVINDRA BHAT
(JUDGE)**

JULY 11, 2017 / tr