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

DECIDED ON : 18th JULY , 2017

+ **W.P.(C) 4606/2015 & CM APPL. 8335/15**

KARTAR SINGH & ORS Petitioners

Through : Mr.Anuroop P.S., Advocate.

versus

UNION OF INDIA & ANR Respondents

Through : Mr.Arun Birbal, Advocate for DDA.

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

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 themselves to be recorded owners of the land of Khasra Nos. 795 (1-6), 799 (0-14), 2022/956 (0-10), 3062/962 (0-5), 3083/931 (0-13) situated in the Revenue Estate of Village Tughlaqabad, New 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 23.01.1965; it included the suit land. A declaration was issued under Section 6 on 13.01.1969. The award bearing No.50A/SUPP./1969-70 dated 04.11.1981 was made by the Land Acquisition Collector.

3. The petitioners aver that pursuance to the award neither physical 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, significantly makes the following admission in Para (5) :

“.....It is submitted that the actual vacant physical possession of various khasra numbers including khasra number 2022/956 (0-10) and 3062/962 (0-5) which formed part of the present writ petition was taken way back on 23.11.1981 on the spot and handed over to the requisition agency on the spot. The actual vacant physical possession of the subject land falling in khasra number 795 (1-06), 799 (0-14) and 3083/931 (0-13) was duly taken on 16.3.2004 and handed over to the requisition agency on the spot. It is further submitted that the possession of the lands under reference was further handed over to the requisition agency i.e. DDA on the spot, the very same day of its taking respective physical possession. It is submitted that the status of the compensation of the subject land could not be ascertained as the 'Statement A' is untraceable and the answering respondent has already issued a Circular dated 2.9.2015 to re-locate the same. Thus in the absence of the Statement A, the status of payment of compensation could not be ascertained.”

5. It is evident that the counter-affidavit does not reveal if any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s).

6. 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.

7. As the respondents have not denied that the compensation of the land in Khasra Nos. 795 (1-6), 799 (0-14), 2022/956 (0-10), 3062/962 (0-5), 3083/931 (0-13) has not paid, in the present case, the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra Nos. 795 (1-6), 799 (0-14), 2022/956 (0-10), 3062/962 (0-5), 3083/931 (0-13) vide award No.50A/SUPP./1969-70 dated 04.11.1981 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)**

JULY 18, 2017 / tr