

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

Date of Decision: October 09, 2017

+ **W.P.(C) 8718/2016 & C.M. 35768/2016**

AJIT SINGH

+ **W.P.(C) 8719/2016 & C.M. 35769/2016**

MEER SINGH

..... Petitioners

Through: Mr. Rajesh Yadav & Mr. Lalit
Kumar Rawal, Advocates

Versus

GOVT OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Siddharth Panda, Advocate for
LAC/L & B in W.P.(C) 8718/2016

Mr. Rajesh Sharma, Advocate for LAC/L & B
in W.P.(C) 8719/2016

Mr.Dhanesh Relan, Ms. Akshita Manocha &
Ms. Kajri Gupta, Advocates

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J. (OPEN COURT)

1. The petitioners claim the relief of declaration under Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (for short 'the New Act') that acquisition in respect of suit lands i.e. Khasra No.273, 278 & 282, total measuring 10 bighas and 06 biswas (*out of which petitioners' claim share to the extent of 1/8th and 1/12th respectively in both the proceedings*) situated in the Revenue Estate of Village Ghonda Gujaran Khadar, Shahdara, Delhi, has lapsed by virtue of Section 24 (2) of the

New Act.

2. The legal issue raised in these two petitions is similar, therefore, though the cases were heard separately but for convenience, common judgment in these cases is passed.

3. In these petitions, notification under Section 4 of Land Acquisition Act, 1894 (old Act) was issued on 23rd June, 1989 and declaration under Section 6 of the old Act was issued on 20th June, 1990. After notices were issued to the land owners and their evidence considered, the Award was published by the Land Acquisition Collector on 19th June, 1992. The Award shows that a parcel of the suit lands i.e. *Khasra No. 273/6-6* was not acquired.

4. Respondent i.e. the Government of NCT of Delhi in the counter affidavit states as follows:-

“That the possession of the land in bearing khasra No. 278 (1-15) & 282 (2-05) was taken over and handed over to the beneficiary department on 21.03.2007. However, the compensation amount is not paid. As per Nakhsa Muntazameen the above said lands are Gaon Sabha land. The petitioner is not recorded owner of the above said land.”

5. The petitioners allege that after framing of the Award, neither possession of the suit lands was taken over by the respondents nor was compensation or any part of it paid in accordance with the law. This Court notices that there is no material on record to substantiate the plea that the lands in question were owned by Gaon Sabha.

6. Supreme Court in *Pune Municipal Corporation and. Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183, has held that if the acquiring body either does not pay compensation to the land

owner or take possession within five years before coming into force of the 2013 Act, the acquisition is deemed to have lapsed. In the present case, the Government of NCT of Delhi states that the possession of the suit lands to the extent of ownership of petitioners in Khasra Nos.278 (1-15) and 282 (2-05) was taken over. However, it also admits at the same time that the compensation was neither paid nor tendered to the petitioners in accordance with the law and was neither deposited. In these circumstances, these petitions have to succeed.

7. In view of above discussion, it is hereby declared that the acquisition in respect of 1/8th share and 1/12th share in suit lands i.e. Khasra No.273, 278 & 282, situated in the Revenue Estate of Village Ghonda Gujaran Khadar, Shahdara, Delhi are free from acquisition and the acquisition is deemed to have lapsed by virtue of Section 24 (2) of the New Act.

8. The writ petitions are allowed in above terms. The pending applications also stand disposed of.

**S. RAVINDRA BHAT
(JUDGE)**

**SUNIL GAUR
(JUDGE)**

OCTOBER 09, 2017

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