

\$~8

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

+ W.P.(C) 5447/2015 & CM No.9802/2015

BABITA SHOKEEN

..... Petitioner

Through: Mr. Sanjay Parikh with Mr. Aagney
Sail and Ms. Maulshree Pathak, Advs.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for L&B/LAC.
Mr. Abhishek Pundir and Ms. Anusuya Salwan,
Advs. for DSIIDC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

03.08.2017

%

1. The petitioner seeks a declaration that the acquisition of the suit lands, i.e. Rectangle No. 15 - khasra Nos. 16(4-16), 17/1(1-07) & 25/2(1-17); Rectangle No. 16 – khasra Nos. 20/2(0-13), 21/1(0-11); Rectangle No. 37 – khasra No. 15(2-3(B)) & Rectangle No. 38 - khasra No.11/1(0-7(B)), village Karala has lapsed in view 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 suit lands were subject to acquisition – having been notified under Section 4 of the Land Acquisition Act, 1894 on 25.08.2005; this was followed by a Section 6

declaration and the award was announced on 26.05.2008.

2. In its counter affidavit, the Land Acquisition Collector (LAC) states as follows:-

“5. That the present writ petition is also liable to be dismissed as the actual vacant physical possession of the subject land i.e. 15//16 (4-16), 15//17/1 (1-07), 25/2 (1-17), 16//20/2 (0-13), 16//21/1(0-11) total measuring (9-04) except khasra number 37//15 and 38//1/1 was duly taken on 29.7.2008 on the spot by preparing possession proceedings on the spot and handed over to the requisition agency on the spot. The compensation of Rs. 49,07,168/- was duly paid to the recorded owner namely vide cheque number 734172 dated 25.5.2009. It is submitted that under the special rehabilitation package so announced by the GNCTD, the petitioner have also received the enhanced compensation of Rs. 42,82,049/- vide cheque number 929519 dated 13.12.2011. Thus the contention of the petitioner today that actual physical possession of the land was not taken holds no truth in it as it was only pursuant to the taking of actual physical possession of the land under reference, the petitioner applied for release of compensation and also availed the benefits of enhanced compensation under special rehabilitation package. Needless to say that the petitioner is making fool of the system and also the judicial process by first resorting to accept the compensation and thereafter the enhanced compensation and thereafter portraying as innocent villager who does not know as to for which reasons, he approached the Government and requested for release of compensation and also enhanced compensation.”

3. However, the affidavit of the Delhi State Industrial and Infrastructural Development Corporation Ltd. (DSIIDC), the beneficiary organization spells out the details of the lands of which possession could not be taken; the same is as follows:-

“7. That the physical possession of Khasra No 15//16(4-16), 17/1(1-07), 25/2(1-17), 16//20/2(0-13), 21/1 (0-11) was taken over on 29.07.2008. But possession of Khasra No 37//15 & 38//11/1 has not been handed over to DSIIDC by the Land Acquisition Collector on account of the fact that the said portion of land is under unauthorized colony under process of regularization in compliance of order no F11(37)/07/L&B/LA/855980 dated 11.09.2007. Copy of the possession proceedings along with true English Translation of the possession proceedings is annexed herewith as Annexure R-1 & a copy of the site plan is annexed herein as Annexure R-2.”

4. In view of the above, it is clear that the petition has to succeed only insofar as khasra No.37/15 and 38/11/1, Village Karala is concerned. A declaration is therefore issued that acquisition of the said lands has lapsed by reason of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 03, 2017

kks