

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

% *Date of decision: November 02, 2017*

+ W.P.(C) 9129/2014, CM No. 20792/2014

ROOPCHAND & ORS

..... Petitioners

Through: Mr. Anuj Kumar Garg, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Abhay Prakash Sahay, CGSC for R-1/IOI
Ms. Shobhana Takiar, Adv. with Mr. Sanjay Kumar, Adv. for DMRC
Mr. Siddharth Panda, Adv. for LAC/L&B

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. This is a petition under Article 226 of the Constitution of India. The petitioners have prayed for a direction that the acquisition proceedings qua land comprising Khasra no. 25 measuring 02 Bighas 12 Biswas, Khasra no. 26 measuring 01 Bighas 00 Biswas, Khasra no. 27 measuring 0 Bighas 11 Biswas, Khasra no. 34/1 measuring 02 Bighas 00 Biswas, Khasra no. 35/1 measuring 02 Bighas 00 Biswas, Khasra no. 35/2 measuring 2 Bighas 13 Biswas, Khasra no. 36/2 measuring 4 Bighas 11 Biswas, Khasra no. 37/2 measuring 3 Bighas 00 Biswas, Khasra no. 38/2 measuring 0 Bighas 07 Biswas, Khasra no. 144/3 measuring 0 Bighas 05 Biswas, Khasra no. 158/2 measuring 0 Bighas 14 Biswas, Khasra no. 159/1 measuring 3 Bighas 18 Biswas, Khasra no. 160/1 measuring 02 Bighas 14 Biswas, Khasra no. 160/2 measuring 02 Bighas 00 Biswas, Khasra no. 161 measuring 0 Bighas 14 Biswas, Khasra no. 163 measuring 03 Bighas 06 Biswas, Khasra no. 164/2 measuring 1 Bighas 16 Biswas, Khasra no. 165/2

measuring 0 Bighas 16 Biswas, in total measuring 34 Bighas 17 Biswas situated in the Revenue Estate of Village Aali, New Delhi in the revenue record stands lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'New Act').

2. Counsel for the petitioners submits that in this case a Notification under Section 4 of the Land Acquisition Act, 1894 was issued on 16th April, 1964, Notification under Section 6 was issued on 22nd December, 1966 and an Award was pronounced on 10th December, 1997. Counsel for the petitioners admits that possession of the land has been taken over. He thus, claims compensation under the provisions of the New Act.

3. It may be noted that when the matter was taken up for hearing, it was pointed out that the land in question has been handed over to DMRC by the DDA. Accordingly, DMRC was impleaded as a party in this writ petition. The representative of the DMRC submits that the payment stands deposited with the DDA as DDA had handed over the possession of the land to DMRC in the year 2008.

4. The counter affidavit has been filed by the LAC. As per the counter affidavit, the possession of the land was taken over and handed over to the beneficiary Department on 26th May, 1998. Counter affidavit further states *"However, as per the naksha mutazamin compensation with respect to the said land was not paid to the recorded owners"*.

5. As per the counter affidavit of the DDA, the compensation was paid by the DDA to the Land and Building Department by cheque dated 23rd November, 1981.

6. Having regard to the fact that the compensation was not paid to the recorded owners, the case of the petitioner would stand fully covered by the decisions rendered in the following cases:-

(i) *Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors* (2014) 3 SCC 183;

(ii) *Union of India and Ors Vs. Shiv Raj and Ors* (2014) 6 SCC 564;

(iii) *Sree Balaji Nagar Residential Association V. State of Tamil Nadu and Ors* Civil Appeal No. 8700/2013 decided on 10.09.2014;

(iv) *Surender Singh Vs. Union of India & Others* WP(C) 2294/2014 decided on 09.10.2014 by this Court; and

(v) *Girish Chhabra V. Lt. Governor of Delhi and Ors.*: WP(C) 2759/2014 decided on 09.10.2014.

7. Accordingly, the petition is allowed to the extent that the petitioners would be entitled to compensation as per the New Act. The compensation shall be paid within a period, not later than one year from today. No costs.

CM No. 20792/2014

Dismissed as infructuous.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 02, 2017/ak