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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9313/2016, C.M. APPL.37487/2016**
SHYAM VATI DEVI Petitioner
Through : Sh. Rajesh Yadav, Sh. Siddharth Gupta
and Sh. Lalit Kumar Rawal, Advocates.

versus

GOVT OF NCT OF DELHI AND ORS Respondents
Through : Sh. R.K. Sharma, Advocate, for
L&B/LAC
Sh. Arush Chikersal, Advocate, for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
% **10.10.2017**

1. The petitioner claims the relief of declaration under Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (hereafter referred to as “the 2013 Act”) that acquisition in respect of suit lands, i.e. Khasra Nos.273 (6-6), 278 (01-15) and 282/1 (2-5), total admeasuring 10 bighas and 06 biswas (out of which petitioner claims share to the extent of 1/12th measuring 0 bigha 17 biswas) situated in the revenue estate of Village Ghonda Gujran Khadar, Shahdara, Delhi, has lapsed.

2. In this petition, Notification under Section 4 of *Land Acquisition Act, 1894* [hereafter “the 1894 Act”] was issued on 23.06.1989 and declaration under Section 6 of the 1894 Act was issued on 20.06.1990. After notices

were issued to the land owners and their evidence considered, the Award was published by the Land Acquisition Collector on 19.06.1992. The Award shows that a parcel of the suit lands i.e. Khasra No. 273 (6-6) was not acquired.

3. The respondent, i.e. the Government of NCT of Delhi (GNCTD) in the counter affidavit states as follows:-

“7. That in the present case, the possession of the all the above mentioned lands, i.e. Khasra No.278 (1-15) & 282/1 (2-05) were taken over and handed over to the beneficiary department on 21.3.2007. It is submitted that as far as Khasra No.273(6-6) situated in Village Ghonda Gujran Khadar is concerned the same was not acquired under the aforementioned award. It is respectfully submitted that the compensation was not received by the petitioner.

8. That it is humbly submitted that in the present case provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would not be applicable as the possession of land in question has already been taken over by the Government and handed over to the beneficiary department and compensation has already been paid to major chunk of land. Thus, the land is free from all encumbrances whatsoever.”

4. 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.

5. The 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 GNCTD states that the possession of the suit lands to the extent of ownership of petitioner in Khasra Nos. 278(1-15) and 282/1(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, this petition has to succeed.

6. In view of above discussion, it is hereby declared that the acquisition in respect of 1/12th share in suit lands, i.e. Khasra Nos.273 (6-6), 278 (01-15) & 282/1(2-5), situated in the revenue estate of Village Ghonda Gujaraan Khadar, Shahdara, Delhi are free from acquisition and the acquisition is deemed to have lapsed by virtue of Section 24 (2) of the 2013 Act.

7. The writ petition is allowed in above terms. The pending application also stands disposed of.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

OCTOBER 10, 2017/ajk