

\$~16

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

+ W.P.(C) 6156/2015 & CM No.12518/2015 (*stay*)

MANOJ KUMAR AND ANR Petitioners

Through: Mr. Ghanshyam Mishra, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Siddharth Panda, Adv. for

R-1 & 2/LAC & L&B Deptt.

Mr. Kush Sharma with Mr. Lalit Mohan, Adv. for
R-3/DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

17.07.2017

%

1. The petitioners seek a declaration that acquisition in respect of suit lands i.e. Khasra No.246 (11-19) & 247 (7-12) admeasuring a total area of 19 bighas and 11 biswas, situated at the revenue estate of Village Jogabai, Delhi have lapsed by reason of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter called 'the Act').

2. In the present case, the suit lands were notified along with several others under Section 4 of the erstwhile Land Acquisition Act on 23.06.1989; this was followed by a declaration under Section 6 of the old Act on 22.06.1990. Notices were issued to interested parties under Section 9 and 10 to refer claims for compensation. Ultimately, the award (19/92-93) was passed on 18.06.1992. The petitioners claim 1/3rd share and entitlement

of the suit lands and base their ownership as descendants of one Balley, their grandfather. Balley expired – as did his son Gynaneder i.e. the petitioner's father.

3. After issuance of notice, the respondents admit that part possession of the land was taken and that compensation as contemplated under Section 24(2) of the Act was not tendered to the land owner at that stage. This is evident from the following extract of the counter affidavit of the appropriate Government:-

“7. That in the present case part possession of the above said land to the extent of 5 bighas and 01 biswas of Khasra No. 246 min and 3 bighas and 11 biswas of Khasra No. 247 was taken over and handed over to the beneficiary department on 13.06.2013, however, payment of compensation with respect to the above said land could not be ascertained as the statement “A” is not available.”

4. From the above, it is evident from the possession that the tender of compensation to the land owner is unclear, even according to the respondents. Therefore the petitioners' assertion has to be accepted in the circumstances. A declaration is issued therefore that acquisition in respect of the suit lands to the extent of 1/3rd share is deemed to have lapsed under Section 24(2) of the Act.

The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 17, 2017/kks