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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 5071/2017, CM APPL.21750-21751/2017

SHYAM SINGH

..... Petitioner

Through: Ms. D. Geetha with Md. Asfar Heyat Warsi,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Jyoti Tyagi, Advocate for
L&B/GNCTD.

Mr. Piyush Gaur, Advocate for R-1&2.

Ms. Sakshi Popli with Mr. Jitender Kr. Tripathi,
Advocate for R-3/NDMC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

31.05.2017

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The petitioner claims declaration that the land acquired by the respondents under the provisions of the Land Acquisition Act, 1894 elapsed by reasons of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter called “the 2013 Act”).

The petitioner asserts that they are and have been in continuous possession of the suit land, i.e., land to the extent of khasra no.16 (comprising of old khasra no. 249 & 272) situated at Panchkuian Road, New Delhi.

The petitioner relies upon the revenue records for the year 1911-12. It is submitted that the petitioner’s predecessors/ancestors became mortgagee in possession of the suit land in 1903 and subsequently, his interest was enlarged to that of the owner by virtue of the sale deed. The

petitioner claims continuous possession and enjoyment of the suit property till 2015 at which point of time they were dis-possessed. It is contended that on account of the fact that the petitioner's predecessors in interest and ancestors were not paid compensation, they are entitled to the declaration under Section 24 (2) of the 2013 Act.

Section 24 (2) of the 2013 Act undoubtedly operates to result in the elapsing of acquisition where for a period in excess of five years from the date of the completion of the acquisition, i.e., making of the Award, either possession is not taken or compensation is not paid.

In the present case however, the Court is of the opinion that the materials on record do not establish the petitioner's right at all. The petitioner concededly was not the original owner. His predecessor occupied the land - in the capacity of the mortgagee. The material placed on record shows that the suit land was notified for acquisition on 21.12.1911. There is no contemporaneous record to show that the compensation was not paid to the original owners. There is no representation to the effect that the owners were not paid.

Having regard to these facts and furthermore, the more important thing being that the nature of the possession itself appears to be under cloud and certainly unclear, the Court is of the opinion that the relief cannot be granted.

The writ petition is dismissed along with all the pending applications.

S. RAVINDRA BHAT, J

NAVIN CHAWLA, J

MAY 31, 2017/vikas/