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

% Judgement delivered on: 24th April, 2017

+ **CONT.CAS(C) 23/2017**

DELHI DEVELOPMENT AUTHORITY Petitioner

Through : Mr. Sanjeev Sabharwal, Adv.
Mr. Siddharth Panda, Adv. for L&B

versus

ASHISH KISHORE Respondent

Through : Mr. Naresh Kaushik, Mr.B. Tripathy
and Mr. Randhir Pandey, Advocates

With

+ **W.P.(C) 2251/2015 & CM Nos.4021, 29010/2015**

M/S PUSHPANJALI SALES (P) LTD. Petitioner

Through : Mr. Naresh Kaushik, Mr.B. Tripathy
and Mr. Randhir Pandey, Advocates

versus

GOVT. OF NCT DELHI & ORS Respondents

Through : Mr. Siddharth Panda, Adv. for L&B
Mr.Sanjeev Sabharwal, Adv. for
DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

S.RAVINDRA BHAT, J. (Oral)

1. One Amar Dass s/o late Shri Tulsi Dass, a displaced person

from West Bengal was allotted the land by the Home Ministry against his verified claims. As per the policy of the Government of India Sh.Amar Dass paid an amount of ₹52,140/- in the year 1960 towards 25 bigha of land in Village Khureji, Delhi. However, only 15 bigha and 17 biswas of land out of total 25 bigha were transferred to him.

2. On 30.10.1971, the Chief Settlement Commissioner directed that Amar Dass be provided with an alternative land of equivalent value in lieu of land that was not transferred to him. The appeal against the said order was also dismissed. Shri Amar Dass died on 25.09.1984 leaving behind his widow Shanti Devi, his two sons namely Pooran Chand and Surinder Kumar and one Smt.Veena, widow of his third son Jagdish Chand who predeceased him, besides his five daughters as his legal heirs. All the legal heirs surrendered their rights in favour of Smt.Shanti Devi and Pooran Chand.

3. On 24.09.1986, the petitioner purchased the land to be specified by the Government of India in lieu of the land already allotted to late Shri Amar Dass under Section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 from Shanti Devi and Pooran Chand through a registered agreement to sell. The letter of allotment was issued on 28.04.1989 to the predecessor in interest, a copy thereof was marked to the Director of the Petitioner Company and Smt.Shanti Devi and Puran Chand were allotted Khasra Nos.1100(18-4), 1103 (109-0), 1116(5-4), 1119(7-10), and 1097(20-3) admeasuring 160 bigha and 1 biswa, situated within the Revenue Estate of Village Satbari, New Delhi. On 26.07.1991, the physical

possession of the land was handed over to the representative of the petitioner company, as alleged.

4. However, in the meanwhile, on 25.11.1980 a notification under Section 4 of the Land Acquisition Act, 1894 and on 07.06.1985 notification under Section 6 was issued and an award bearing No.14/87-88 with respect to the subject land along with other lands was pronounced but as alleged by the petitioner the possession of the subject land was never taken.

5. In the meanwhile, on 18.11.1988 this Court in *Balak Ram Gupta vs. Union of India* (1989) 38 DLT 243 quashed the notification under Section 6 dated 07.06.1985. A letter dated 31.03.1989 was written by Geeta Sagar, Joint Secretary to the Deputy Commissioner to release the subject land, the possession of which was already with the land owners under an impression that the entire acquisition process was quashed. However, later in *Abhey Ram vs. Union of India* (1997) 5 SCC 421 the Supreme Court held that the decision in *Balak Ram Gupta* was not a judgment in rem. The petitioner alleges that thereafter the officers of the respondents started disturbing the possession of the petitioner and a Writ Petition (C) No.3371/2001 was filed challenging the notification on the ground that the land being an evacuee property, formed a part of the compensation pool and is a government land; thus, it could never be notified under Section 4 of the Land Acquisition Act, 1894. The status quo order was passed, but ultimately the said writ was dismissed on 19.05.2005. The review and appeal to the Supreme Court also met the same fate.

6. It is alleged that the petitioner despite being in actual and physical possession of the subject land throughout these years had not ever received any compensation from the government. The notification was thus sought to be declared to have elapsed.

7. The counter affidavit of respondents reads as under:-

“8. That in the present case, the possession of the land of the petitioner was taken over and handed over to the beneficiary department 14.07.1987 and compensation with respect to Khasra No.1103 (85-0) was forwarded to the Court of ADJ under 30-31 of LA Act, 1894 vide order dated 30.10.1987 of the then LAC and Khasra No.1097 min(6-00) paid to land owner on 28.10.1987 to Sunni S/o Bhaktawar. Compensation with respect to the remaining land was sent in RD. It is pertinent to mention here that Khasra No.1100 (12-00) is also subject matter of W.P. (C) No.6712/15 titled as Green Range Farms Pvt. Ltd., wherein the petitioner is also claiming relief with respect to the above said land.

9. 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 and in question has already been taken over by the Government and handed over to the beneficiary department and compensation with respect to some land were forwarded to the court of ADJ and remaining compensation has already been deposited in RD. Thus, the land is free from all encumbrances whatsoever. Moreover, the period of five years as stipulated in sub-section (2) of Section 24 would be applicable from the date of order of Hon'ble Supreme Court of India in Om Prakash's case. It is pertinent to mention here that

the large numbers of writ petitions were filed by various interested persons including the present petitioners, challenging the above said notification before this Hon'ble Court and in large number of cases interim orders were passed, which remain in force for quite a long period until the writ petitions were dismissed by the Hon'ble High Court and than by the Hon'ble Supreme court of India. The answering respondent was prevented from utilizing the land or complicating the acquisition proceedings before 31.12.2013."

8. Thus, in a nutshell, the respondents alleged that the compensation qua Khasra No.1103 has been forwarded to the Court of the ADJ whereas, the compensation with regard to Khasra No.1097 min (6-0) was paid to one Sunni, though the payment to Sunni is denied. The petitioner further alleges that the deposit of compensation in the RD would also be against the spirit of *Delhi Development Authority V. Sukbir Singh* 2016 SCC Online SC 929.

9. In *Pune Municipal Corporation & Anr. V. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183 the Supreme Court held as under:-

"under section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under section 24 (2) comes into operation as soon as conditions stated therein are satisfied, the applicability of section 6 of the General Clauses Act being subject to section 24

(2), there is no merit in the contention of the corporation (emphasis supplied)”

10. Here since the appropriate government did not deny the fact that the compensation was never tendered to late Amar Dass, or to his legal heirs or to the petitioner, herein, consequently, in line with the decision in *Pune Municipal Corporation* (supra) the relief claimed needs to be granted. The declaration is thus issued in respect of the land falling in Khasra Nos.1103(109-0), 1116(5-4), 1119(7-10), and 1097(20-3) situated in the Revenue Estate of Village Satbari, New Delhi stood lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioner seeks a similar declaration qua Khasra No.1100(18-4) in WP(C) No.6712/2015 and hence such relief cannot be granted in this petition.

11. In view of the above, the writ petition and pending miscellaneous application are allowed.

12. The Contempt Case No.23/2017 relates to an act of the petitioner violating the status quo passed on 12.07.2016 and as the declaration qua such land has been declared to have lapsed so the contempt case is also disposed off.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 24, 2017/M