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

DECIDED ON : 19th JULY , 2017

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W.P.(C) 9820/2016

SANJAY & ORS

..... Petitioners

Through : Mr.M.C.Verma, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Mr.Yeeshu Jain, Standing Counsel with
Ms.Jyoti Tyagi, Advocate for L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

CM APPL. 25202/2017 (Early hearing)

1. For the reasons mentioned in the application, the date is pre-poned and the matter is taken up for hearing today.
2. The application stands disposed of.
3. The date already fixed in the matter i.e. 31st October, 2017 stands cancelled.

W.P.(C) 9820/2016 & CM APPL. 39100/2016

1. In the instant writ petition, the petitioners claim themselves to be recorded owners of the land of Khasra Nos. 25//22/1 measuring 4 bighas and 03 biswas and 25//27 measuring 3 bighas and 07 biswas situated in the Revenue Estate of Mamoor Pur. The petitioners' claim is that acquisition of their lands (hereinafter referred to as 'suit land') has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

2. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 30.10.1963; it included the suit land. A declaration was issued under Section 6 on 16.01.1969. The award bearing No. 202/86-87 dated 19.09.1986 was made by the Land Acquisition Collector.

3. The petitioners aver that pursuance to the award neither physical possession of the suit land was taken over by the respondents nor any compensation in respect thereof was ever paid or tendered. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since the five year period indicated in Section 24(2) of the Act has ended.

4. The respondent No.1 - Union of India through LAC, in its counter-affidavit, significantly makes the following admission in Para (5A) :

“5A. That the present writ petition is liable to be dismissed as the actual vacant physical possession of the subject land falling in khasra number 25//22/1 (4-00) and 25//27 (3-05) was duly taken on the spot on 23.9.1986 and handed over to the requisition agency on the spot by preparing possession proceeding on the spot. The remaining parcel of the subject land falling in khasra number 25//22/1 (0-03) and 25//27 (0-02) was duly taken on the spot on 19.3.2004 and handed over to the requisition agency on the spot by preparing possession proceeding on the spot. However, the compensation for the said lands could not be paid and lying deposited in RD as the petitioners and/or recorded owners never turned up to claim the same.”

5. It is evident that the counter-affidavit does not reveal if any compensation for acquisition of the suit land was tendered or paid to the recorded owner(s).

6. The Supreme Court in Pune Municipal Corporation case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. The decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the concerned amount and make it available to the land owner, i.e. by way of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

7. As the respondents have not denied that the compensation of the land in Khasra Nos. 25//22/1 measuring 4 bighas and 03 biswas and 25//27 measuring 3 bighas and 07 biswas has not been paid, in the present case, the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra Nos. 25//22/1 measuring 4 bighas and 03 biswas and 25//27 measuring 3 bighas and 07 biswas vide award No. 202/86-87 dated 19.09.1986 is deemed to have lapsed by virtue of Section 24(2) of the Act.

8. The writ petition is allowed in the above terms. Pending application also stands disposed of.

S.P.GARG
(JUDGE)

S. RAVINDRA BHAT
(JUDGE)

JULY 19, 2017 / tr