

\$~17

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

+ W.P.(C) 6616/2015 & CRL.M.A.No.12067/15

DARYA SINGH & ORS

..... Petitioners

Through : Mr.Sukhbir Sejwal, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through : Mr.Pawan Mathur, Standing Counsel/DDA.
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

ORDER

%

17.07.2017

The petitioners claim a direction that the acquisition of the suit lands i.e. Khasra Nos.182(01-18) and 183/1(01-10), in Village Rajpur Khurd, Tehsil Hauz Khas, Mehrauli, New Delhi, is deemed to have lapsed by virtue of Section 24(2) of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (hereafter called 'the Act').

Concededly, notification under Section 4 of the Land Acquisition Act, 1894 was made on 25.11.1980; a declaration followed under Section 6 on 18.06.1985. The petitioners also state that the award No. 22/1987-88 was made on 17.06.1987 and soon thereafter the petitioners withdrew the compensation. It is, however, stated that physical possession was never taken by the appropriate Government. On this ground, a declaration under Section 24(2) is

sought. In support of this argument, the petitioners rely upon the response of the Delhi Development Authority, through a letter written by it requesting for allotment of alternative land in accordance with its policy. Delhi Development Authority stated in its response dated 14.11.1990 as follows :

“Sir/madam,

Reference your application dated. 18/11/87 I have been directed to inform your that in case of your acquired land acquired vide Award No.22/87-88 dated/17.06.87 notification u/s 22(i)(c) of the Land Acquisition Act has not been issued and it has also been reported that the acquisition notification has been quashed by the competent Authority / Court. Your case for allotment of alternative plot is therefore been closed.”

The petitioners rely upon this as well as the possession proceedings dated 15.07.1987. In respect of the letter / document learned counsel urges that the statement contained in the possession report i.e. land 369 bighas and 9 biswas was taken over by the LAC and the other officials of the appropriate Government cannot be accepted as the suit lands were part of a larger track of land which was physically impossible to be taken into possession in a day.

The respondent Delhi Development Authority as well as the appropriate Government contest the claim and submit that the petitioners have not disputed withdrawal of the compensation. So far as the taking of possession is concerned, both the appropriate Government / Govt. of NCT of Delhi and Delhi Development

Authority rely upon the possession report to say that there is no dispute that on the date in question i.e. 15.07.1987 the lands that were taken up were agricultural. Therefore, there was no impediment in taking over physical possession. Delhi Development Authority explained the letter issued by it with reference to Section 22 of the Delhi Development Authority Act and submits that as on that date i.e. 14.11.1990, the notification formally transferring the lands to the Delhi Development Authority had not been issued.

From the above discussion, it is evident that only controversy is whether possession of the suit lands was taken. The possession report and its translated copy have been filed by the petitioners. It shows that *per se* that the lands that were taken up according to the petitioners were agricultural. There is no dispute as to whether any built up properties of any kind existed on the suit lands. In these circumstances, having regard to the declaration in *Delhi Development Authority vs. Sukhbir Singh & Ors.*, AIR 2016 SC 4275, the Court is of the opinion that possession was in fact taken and the petitioners' contention in this regard cannot be accepted.

For the above reasons, the Court is of the opinion that the declaration sought cannot be granted in this case. The Writ Petition is dismissed. Pending application also stands disposed of.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 17, 2017 / tr

Page 3 of 3