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

DECIDED ON : 17TH AUGUST, 2017

+ **W.P.(C) 6434/2015**

RISAL SINGH & ORS. Petitioners

Through : Mr.V.S.Tomar, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

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

Mr.Dhanesh Relan, Advocate with Ms.Isha Garg
& Ms.Gauri Chaturvedi, Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

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

1. Learned counsel for the Govt. of NCT of Delhi through LAC seeks liberty to place on record the counter-affidavit. Liberty granted. Counter-affidavit is taken on record.

2. The petitioners claim themselves to be recorded owners of the land bearing Khasra No.1119 Min measuring 4 bighas and 10 biswas situated in the Revenue Estate of Village Malikpur Kohi @ Rangpuri, Tehsil Vasant Vihar, New Delhi out of which land measuring 1000 sq.yds. (hereinafter referred to as 'suit land') has been sold to Sanjiv Nahar by way of execution of GPA (annexure 'P1'). The petitioners' claim is that acquisition of 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').

3. A notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 27.06.1996; it included the suit land. A declaration was issued under Section 6 of the old Act on 10.01.1997. The award bearing No.02/98-99 dated 07.01.1999 was made by the Land Acquisition Collector.

4. The petitioners aver that pursuant to the award, no compensation has been paid or tendered by the respondents nor its possession was taken. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since five year period indicated in Section 24(2) of the Act has ended.

5. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Para (7) :

“7. That it is submitted that many of the land owners filed various writ petitions including the lead case being Civil Writ Petition No. 1953/1997 titled Vasant Kunj Enclave Housing Welfare Society v. Union of India & Ors. before this Hon'ble Court for quashing of the Notifications dated 27.06.1996 issued by the Government of NCT of Delhi under Section 4 read with sub-sections (1) & (4) of Section 17, dispensing with Section 5-A and Notifications dated 10.01.1997 issued under Section 6 of the Land Acquisition Act, 1894. In the said writ petitions, interim stay/status quo orders were passed in favour of the petitioners therein as early as on 16.12.1996. The said writ petitions along with the lead case being WP(C) No. 1953/1997 were disposed on 04.05.2012, whereby Sections 6 and 17 was quashed

qua the petitioners therein. Thereafter, the public notice issued by the answering respondents on 21.11.2012 inviting objections from interested persons under Section 5A of the Old Act were challenged in two writ petitions being WP(C) No. 7795/2012 and WP(C) No.7802/2012 and the same was stayed vide interim orders dated 19.12.2012 and 11.10.2013 respectively, and the parties were directed to maintain the status quo. The aforesaid writ petitions, i.e. W.P.(C) No.7795/2012 and W.P.(C) No.7802/2012 were dismissed as withdrawn on 05.11.2014 and 12.10.2015 with the liberty to seek remedy individually by land losers. It is submitted that the khasra number 1119 formed part of the writ petition No.7802/2012 whereby the status quo was granted vide order dated 11.10.2013 and the status quo was maintained till 5.11.2014. Thus, due to the operation of stay granted by the Hon'ble Court, the actual vacant physical possession of the subject land could not be taken nor the compensation could be paid as not received from the requisition agency i.e. DDA. It is further submitted that the petitioners never challenged the acquisition proceedings earlier in time as the acquisition proceedings qua the said khasra number was never quashed by the Hon'ble Supreme Court in Geeta Batra v. GNCTD."

6. The Division Bench of this Court in W.P.(C) No.2299/2002 tilted *Santosh Singh & Ors.vs.UOI & Ors*, decided on 13.11.2014, held after overall consideration of the provisions of Section 19, 24(2) and Section 69 of the Act, that the situation where interim orders were made by the court too would fall within the ambit of Section 24(2). In *Santosh Singh & Ors* (Supra) it was held as follows:

"A close analysis of the above provisions would reveal that Section 19 enables the acquisition process by the

appropriate Government issuing a declaration, Section 19 (6) is an important exception in that it imposes a limitation on the power itself (i.e limitation for making declaration). In case the time limit is not adhered to, the acquisition lapses. The proviso to Section 19 (6) recognizes that sometime Court intervention by interim orders impede the appropriate Government from issuing declarations. Section 69 (2) enables increased compensation; yet, the explanation provides that if the landowner secures an interim order, the period spent in litigation, particularly when the interim order subsists, cannot be given benefit to him while calculating interest. Thus, limitation of power freshly conferred or created by the Act does not follow a uniform pattern. The object of the provision in question defines how the allusion to interim orders of court are dealt with. However, Section 24 (2) is a special provision that but for its enactment, would have resulted in the operation of the General Clauses Act, 1897 in that all action taken under the old law would have been preserved. It therefore had to be construed in the context of the old enactment which clearly contemplated exclusion of time at the different stages when interim orders subsisted (i.e to make declaration after preliminary notification and also extended period for making the award). These perspectives are indicative of a contrary interpretation. However, this Court notices that the ruling of the Supreme Court on this aspect is decisive; it consequently binds it.”

7. It is evident that compensation for acquisition of the suit land was not tendered or paid to the recorded owner(s) / petitioner.
8. Petitioner's plea is being considered / restricted only under Section 24(2) of the Act.

9. As the respondents have not denied that the compensation of the suit land has not been paid and its possession has not been taken, the petitioners are entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra No.1119 Min to the extent of petitioners' share i.e. measuring 1000 sq.yds. vide award No.02/98-99 dated 07.01.1999 is deemed to have lapsed by virtue of Section 24(2) of the Act.

10. The writ petition is allowed in the above terms. Pending application (if any) also stands disposed of.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 17, 2017 / tr