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

+ W.P.(C) 11735/2016 & CM APPL 46178/16

DAMINI WADHWA

..... Petitioner

Through : Mr.N.S.Vasisht, Advocate with Ms.Jyoti
K.Bajaj & Mr.Vishal Singh, Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through : Mr.Siddharth Panda, Advocate for
L&B/LAC.

Mr.Pawan Mathur, Standing Counsel for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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25.07.2017

Learned counsel for the respondents No.4 & 5 seeks liberty to place on record the counter-affidavit. Liberty granted. Counter affidavit is taken on record.

The petitioner seeks declaration that the acquisition in respect of the suit lands i.e. Khasra No.589 (1-8), 1 bigha and 8 biswas (out of 4 bighas) situated in the Revenue Estate of Village Maidan Garhi, NCT of Delhi, is deemed to have 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').

In this case, the suit lands along with other agricultural lands were notified under Section 4 of the Land Acquisition Act on 25.11.1980; declaration was issued under Section 6 of the Act on 07.06.1985. Subsequently, notices for finalizing the award was issued and after considering the material, the Collector passed an award No. 23/87-88 dated

17.06.1987. It is submitted that neither the possession taken nor the compensation paid. LAC in the counter-affidavit states that possession could not be taken and also consequently the compensation could not be paid on account of interim orders made in W.P.(C) 424/1987 and other connected matters [including W.P.(C) 346/1987]. These writ petitions had a difference of opinion; it lead to the matter being decided by the third judge which was ultimately decided in a judgment in *Om Parkash vs. Union of India & Ors*, 2010 (4) SCC 17.

In the counter-affidavit, the appropriate Government through LAC *inter-alia* states as follows :

“7. That the acquisition proceedings initiated by the aforesaid notification / declarations were challenged by the interested persons by filing various writ petitions wherein interim protection was granted by his Hon’ble Court. The interim protection was granted in WPC No. 424/1987 titled as Chatro Devi / Union of India & Ors. and other connected matters (including WPC No.346/1987 titled as Om Prakash/ Union of India) by this Hon’ble Court and the same continued till the disposal of the writ petitions by this Hon’ble High Court when the acquisition proceedings were upheld; A writ petition bearing CWP No.2041/85 titled as Puran & Ors. Vs. UOI was also filed wherein the land in question was also the subject matter. In this writ petition the acquisition proceeding was also challenged. It is pertinent to mention here that various rounds of litigation were fought in respect of the above mentioned notifications. On 25.11.2004, this Hon’ble Court dismissed the writ petitions and upheld the acquisition proceedings. However, in one set of writ petitions there was difference of opinion and these cases were referred to the third Judge and the same was decided on 11.05.2007. These cases were decided in favour of the land owners and notification under section 6 and subsequent acquisition proceedings were quashed. In both the sets of cases the aggrieved parties i.e., the land owners and Union of India, went in appeal before the Hon’ble

Supreme Court of India. The appeals preferred by the Land Owners appeal were dismissed by the Hon'ble Supreme Court of India in Om Prakash Versus Union of India & Ors. alongwith other appeals in 2010 reported in 2010 (4) SCC 17, thereby upholding the acquisition proceedings. The appeals filed by the Government were dismissed by the Hon'ble Court on 07.05.2014 in Union of India Versus Shiv Raj & Ors. alongwith other connected appeals. As far as the present land in question is concerned the writ petition bearing CWP No.2041/85 was dismissed by the Hon'ble High Court and subsequently by the Hon'ble Supreme Court alongwith Om Prakash's case. Thus, the acquisition qua the land in question has attained finality."

Having regard to the above averments, the Court is of the opinion that the ingredients of Section 24(2) of the Act are satisfied. It is hereby declared that the suit lands in Khasra No.589 to the extent of 1 bigha and 8 biswas (out of 4 bighas), belonging to the petitioner and part of Revenue Estate of Village Maidan Garhi, NCT of Delhi, are free from acquisition by virtue of Section 24(2) of the Act. The writ petition is allowed. Pending application also stands disposed of.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 25, 2017 / tr