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

+ W.P. (C) 6954/2015, CM APPL.12744/2015

MALHE AND ANR. Petitioners

Through: Mr. Dhruv Grover, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

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

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE I.S. MEHTA

ORDER

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17.04.2017

In this petition the relief claimed is the declaration that the acquisition of land is deemed to have been elapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

The petitioner claims consequential orders in respect of Khasra Nos.353 (4-16), 354 (3-10), 355 (3-14), 356 (3-10), 236 (4-16) and 239/3/2 (3-3) Village Pul Pehlad, New Delhi. The Notification under Section 4 was issued on 23.01.1965; followed up by declaration under Section 6 on 13.01.1969. On 31.01.1983, Award No.63/1982-83 was published. The petitioners contend that the respondents did not take possession nor was compensation tendered in the manner known to law. In support of their submissions, the petitioners have filed

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documents such as copies of the Award and the revenue documents.

The respondents have filed their counter affidavit. According to their submissions, the possession was handed over long back - on 04.03.1983.

They also rely upon the Award to say that all formalities were completed and that the land vested in the appropriate Government and that it was duly handed over to the requisitioning agency, i.e., the Delhi Development Authority (“DDA”).

With the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Parliamentary intention was that wherever possession of acquired land was not secured within five years prior to the enactment or where compensation was not tendered to the land owners in accordance with law within that period, the acquisition would be deemed to have elapsed, by virtue of Section 24 (3). That provision has been the subject matter of several judgments. The leading one being *Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors*: (2014) 3 SCC 183. The ruling has been followed in several Supreme Court judgments as well as decisions of this Court.

In the present case, although the respondents have provided materials to support their contention that the land owners were dispossessed on specific dates mentioned in the returns/counter affidavit, no such details are forthcoming with respect to tendering of compensation. *Pune Municipal Corporation (supra)* is categorical in *W.P. (C) 6954/2015*

that unless compensation is tendered to the land owners in the manner known to law, Section 24 (2) will operate to invalidate or nullify the acquisition to the extent of the land in question.

Having regard to the significant omission on the part of the respondents to reveal whether compensation was tendered to the petitioners and if so on what dates, the Court is of the opinion that the claim in the present proceedings has to succeed.

In the light of the foregoing discussions, it is hereby declared that the acquisition is deemed to have lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 with respect to Khasra Nos. 353 (4-16) and 356 min. (3-10), Village Pul Pehlad, New Delhi, for which compensation was not paid to the petitioners. Consequential direction is also issued to the respondents to take necessary steps - if they so choose - within one year to acquire the land.

The writ petition is partly allowed in the above terms.

S. RAVINDRA BHAT, J

I.S. MEHTA, J

APRIL 17, 2017

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