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

+ **W.P.(C) 7195/2015**

BALBIR SINGH & ORS Petitioners

Through: Mr. Aagney Sail, Adv.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

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

Mrs. Renuka Arora with Ms. Nikita Salwan, Adv.
for R-4/DSIIDC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

25.09.2017

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CM No.35298/2017 (*for substitution of LRs*)

Having regard to the averments made, the Court is of the opinion that interest of justice lies in the grant of the relief claimed.

Accordingly CM No.35298/2017 is allowed. The legal representatives of deceased/petitioner No.1 are substituted, subject to all just exceptions.

W.P.(C) No.7195/2015 & CM No.13217/2015

1. The petitioners seek a direction that their land notified for acquisition (khasra No.10//11(4-12), 12(4-05), 19(4-02), 61//20/2(2-18), 22/1(1-09), 21(4-12) total (21-18), Village Karala, New Delhi, is free and that the

acquisition has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. In the present case, the appropriate Government issued notification under Section 4 of the Land Acquisition Act, 1894 (hereafter referred to as “the Act”) on 25.08.2005; the declaration under Section 6 was made on 10.07.2006. The award in respect of the acquired lands was published on 26.05.2008. The petitioners admit that though the compensation was paid, possession of the entire lands was not taken over.

3. The counter affidavit of the respondents i.e. the Government of NCT of Delhi pertinently states as follows:

“5. That the present writ petition is also liable to be dismissed as the actual vacant physical possession of the land under reference i.e. khasra number 10//11(4-12), 12(4-05), 19(4-02), 61//20/2(2-18), 22/1(1-09), 21(4-12) total (21-18) were acquired vide award no.3/08-09, village Karala, New Delhi. The actual vacant physical possession of khasra number 10//11(4-12), 12(4-05), 19(4-02) total (12-19) was duly taken on the spot on 29.07.08 by preparing possession proceedings on the spot and handed over to the requisition agency on the spot. The physical possession of remaining kh. no. i.e. 61//20/2 (2-18), 22/1(1-09), 21(4-12) total (8-19) could not been taken. The ownership lies with Balbir Singh, Hari Singh, Karan Singh & Satyavir Singh Ss/o Sardar Singh (1/4 share each) at item no. 54 to 57 respectively. The awarded compensation to the tune of Rs. 17,26,833/- each have been paid to the petitioners vide cheque no 341378 to 341381 dated 03.07.2009 for the land measuring (12-19), the possession of which was taken, stated supra. Further, the Special Rehabilitation Package (SRP), as announced by the GNCT of Delhi as enhanced compensations, to the tune of Rs. 15,06,862/- each vide cheque no 929683 to

929685 dated 02.01.2012 has also been paid for item no. 54, 56 & 57 respectively. As regards item no. 55, it is informed that the SRP Compensation was paid to Satender, Dharmender & Jitender Ss/o Hari Singh (with 1/12 share each) amounting to Rs. 5,02, 287/- each vide cheque no. 929688 to 929690 dated 02.01.2012. There is no dispute with regard to the payment of compensation as the petitioners have duly admitted in para 5-6 of the writ petition that they have duly received the entire compensation from the Government. Thus the contention of the petitioner today that actual physical possession of the land was not taken holds no truth in it as it was only pursuant to the taking of actual physical possession of the land under reference, the petitioner applied for release of compensation and also availed the benefits of enhanced compensation under special rehabilitation package. Needless to say that the petitioner is making fool of the system and also the judicial process by first resorting to accept the compensation and thereafter the enhanced compensation and thereafter portraying as innocent villager who does not know as to for which reasons, he approached the Government and requested for release of compensation and also enhanced compensation.”

4. In view of the declaration of law by the Supreme Court in *Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors.* AIR 2014 SC 982, it is clear that the Government of NCT of Delhi has admitted that possession of 8 bighas 19 biswas of land (khasra No.61//20/2 (2-18), 22/1 (1-09), 21 (4-12) could not be taken. Similarly, compensation was not paid in respect of this portion of the land.

5. In these circumstances, the acquisition in respect of the said suit lands is deemed to have lapsed. A declaration is therefore issued that the left over portions to the extent of 8 bighas 19 biswas of the said lands are free from acquisition in respect of Section 24(2) of the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

The writ petition is allowed to the above extent.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 25, 2017
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