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

+ W.P.(C) 7151/2015 & CM No.13116/2015

BHAGWAN SINGH

..... Petitioner

Through: Mr. Sanjay Parikh with Mr. Aagney
Sail and Ms. Maulshree Pathak, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for L&B/LAC.
Mr. Abhishek Pundir and Ms. Anusuya Salwan,
Advs. for DSIIDC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

03.08.2017

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1. Petitioner seeks a declaration that the suit lands i.e. Rectangle No. 64 - Khasra No. 19(6-15), 21(5-12); Rectangle No. 65 – Khasra No. 25 (Less than Biswa); Rectangle No. 66 – Khasra Nos. 5(0-07), 6(0-14), 15(0-06); Rectangle No. 67, Khasra Nos. 1(4-12), 10(2-17), 11(0-13), Village Karala are free from acquisition by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as “the Act”).

2. In this case, notification under Section 4 of the Land Acquisition Act, 1894 was issued on 25.08.2005 after which a declaration under Section 6

was made on 10.07.2006. The award in respect of the acquired lands was pronounced on 26.05.2008 (Award No.3/08-09).

3. The petitioner claims that the lands have been freed from acquisition since possession was not taken, and the compensation has not been paid either.

4. In the counter affidavit, the Government of NCT of Delhi refers to Special Rehabilitation Package (SRP) as an additional benefit to the land owners covered by the acquisition. It, however, also 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 64//19 (6-15), 21 (5-12), 65//25 (less than biswa), 66//5 (0-7), 6(0-14), 15(0-06), 67//1(4-12), 10(2-17), 11(1-13) total (21-16) are acquired vide award no.3/08-09, village Karala. The actual vacant physical possession of these khasra was taken on 29/07/08 except kh. Number 64//19 min (4-12) on the spot by preparing possession proceedings on the spot and handed over to the requisition agency on the spot. The ownership lies with Bhagwan Singh and Kishan Singh Ss/o Sher Singh (1/2 share each) at item no.141-142. The awarded compensation to the tune of Rs. 45,96,674/- has been paid vide cheque no 734155 dated 25.05.2009 to Bhagwan Singh for (17-04) land, the possession whereof taken. Further, the Special Rehabilitation Package (SRP), as announced by the GNCT of Delhi as enhanced compensations, has also been received by Bhagwan Singh vide cheque no. 929897 dated 09.01.2012 amounting to Rs. 40,02,785/-. Neither the awarded compensation nor SRP paid for khasra no 64//19 min (4-12), whose possession not taken by Govt. There is no dispute with regard to the payment of compensation as also the enhanced compensation under the SRP 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.”

5. From the above, it is clear that possession of some parts of the said lands were not taken over. Thus, possession of khasra No.64/19 min. (4-12), Village Karala was not taken over by the respondents. Apparently, even the compensation as well as the Special Rehabilitation Package too were not paid.

6. Consequently, the Court is of the opinion that the petition has to succeed to the extent of khasra No.64/19 min. (4-12), Village Karala.

The writ petition is allowed to the above extent.

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 03, 2017

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