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

+ W.P.(C) 7159/2015 & CM No.13124/2015

VIKRAM MATHUR & ORS.

..... Petitioners

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. Petitioners seek a declaration that the suit lands i.e. Rectangle No. 39 - Khasra No. 16(2-13) and Rectangle No. 39 – Khasra No. 12(4-16), 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 petitioners claim that lands have been freed from acquisition since possession was not taken and neither was the compensation paid.
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 39//16 (2-13) at item no 337 to 338, 39//12(4-16) at item no 368 to 369 are acquired vide award no.3/08-09, village Karala. The actual vacant physical possession of kh. no. 39//12 (4-16) was taken on 29.07.08 on the spot by preparing possession proceedings on the spot and handed over to the requisition agency on the spot, however, the possession of kh. No. 39//16 (2-13) could not been taken. The ownership lies with Daulat Ram and Vikram Mathur Ss/o Rajender Singh (1/4) each and Davender S/o Rattan Singh (1/2) share in both khasra numbers. Since the possession of khasra no. 39//16 (2-13) has not been taken by the govt therefore neither awarded nor SRP compensation has been paid. As regards kh. No. 39//12 (4-16) is concerned it is submitted that the awarded compensation to the tune of Rs. 6,40,065/- each vide cheque no 733900 dated 08.04.2009 has been paid respectively. Further, the Special Rehabilitation Package (SRP), as announced by the GNCT of Delhi as enhanced compensations, to the tune of Rs. 5,58,528/- each vide cheque no 929528 dated 14.12.2011 has been paid to Daulat Ram and Vikram Mathur respectively. Similarly SRP compensation to the tune of Rs. 2,79,264/- each vide cheque no. 929378 to 929381 dated 02.12.11 has been paid to Bagwati D/o Rattan Singh, Sushila W/o Davender, Jyoti D/o Davender and Manjeet Mathur S/o Devender Singh (being LR's of Devender as he expired). 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.”

5. In view of the above, it is clear that possession of khasra No. 39/16 (2-13) was not taken over. The petitioners, therefore, are entitled to a declaration that the acquisition in respect of the said lands have lapsed by reason of not taking possession and non-payment of compensation.

The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 03, 2017
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