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

+ W.P.(C) 6960/2015 & CM No.12759/2015 (*for ad-interim order*)

RAJENDER & ORS

..... Petitioners

Through: Mr. Ram Kumar with Mr. R.B.
Sisodia, Advs.

versus

GOVT. OF NCT OF DELHI & ANR

..... Respondents

Through: Mr. Arjun Pant, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

25.04.2017

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1. The petitioners seek a direction that the lands which were acquired by the respondents by Notification dated 21.11.1978 (Section 4 of Land Acquisition Act, 1894) forming part of Khasra Nos.65/17(3-12), 65/24(4-2), 65/25(4-04) and 86/5(1-5) totalling 13 bigha and 3 biswa to the extent of half share in Village Mehrauli in respect of which the Award was framed on 09.04.1980, are to be declared as having lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The land was notified for acquisition on 21.11.1978 along with others; declaration was issued subsequently and after considering the materials on record, award was issued on 09.04.1980. The petitioner does not dispute

that possession of the suit lands was taken over by the respondents. It is, however, contended that the petitioner's predecessor Shri Bhoop Singh, the recorded owner was not given the compensation.

3. The respondent – Land Acquisition Collector (LAC) states in the reply that compensation with respect to the half share of the suit lands was paid to Shera / S/o Dallu on 10.06.1980. However, the respondents do not assert that the petitioners' predecessors' share, to be paid to late Shri Bhoop Singh was ever tendered or even deposited. This is evident from the following extract of their counter affidavit:

“6. That as per the record, the land in question i.e., Khasra No.65/17 (3-12), 65/24 (4-2), 65/25 (4-04) and 86/5 (1-5) total admeasuring to 13 bigha and 03 biswa (Petitioners are claiming 6 bigha and 11 biswa out of the total land in the present petition) situated at the revenue estate of village Mehrauli, New Delhi, was notified under section 4 of Land Acquisition Act on 21.11.1978 followed by declaration under section 6 of Land Acquisition Act on 21.11.1978 for Planned Development of Delhi. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims were also filed by the interested persons. The then Land Acquisition Collector passed Award No. 08/80-81 dated 09.04.1980 after considering the claims of the claimants.

7. That in the present case, the possession of the land in question was taken over and handed over to the beneficiary department on 06.01.1979. Compensation with respect to the above mentioned land was paid to Shera S/o Dallu on 10.06.1980.”

4. In view of the above admission, the Court is of the opinion that since compensation was not tendered to the land owner – in line with the

interpretation in *Pune Municipal Corporation & Anr. v. Harak Chand Mishri Lal Solanki & Anr.*; (2014) 3 SCC 183, the acquisition in respect of the petitioner's half share of the said suit lands have deemed to have elapsed. It is, of course, open to the respondents to acquire the suit lands, in accordance with the provisions of the Land Acquisition, Rehabilitation and Resettlement Act, 2013, provided such acquisition is initiated and completed within one year.

5. The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 25, 2017
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