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

\+ W.P.(C) 7004/2015, C.M. APPL.12838/2015

MANJEET SINGH ANAND ..... Petitioner
Through : Sh. B.S. Maan and Sh. Vishal Maan, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS. ..... Respondents
Through Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate, for L&B/LAC.
Sh. Sanjeev Sabharwal, Advocate, for DDA.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE YOGESH KHANNA

O R D E R

% 02.05.2017

The petitioner claims declaration that the entire acquisition proceedings in respect of the plot of the petitioner measuring 368 square yards in Khasra No.1403 min (0-07), situated in the revenue estate of Village Tihar, Rajouri Garden, New Delhi (presently known as Plot No.F, Pratap Nagar, New Delhi-64) has lapsed.

The petitioner's land was notified on 13.02.1964 under Section 4 of the Land Acquisition Act, 1894. Subsequently, a declaration was issued and thereafter an Award was made on 12.05.1967. The petitioner was not the original land owner but appears to have acquired the land through certain documents, though not sale deeds. Copies of the said documents – General Power of Attorney, receipts

etc. are on the record. It is contended that after the Award, the possession of the lands was not taken by the respondents. To say so, the petitioner relies upon the replies to queries furnished by the GNCTD on 20.09.2006, 13.07.2009 and 15.06.2012.

The petitioner also relies upon the judgment of this Court in *Smt. Harbans Kaur v. Govt. of NCT of Delhi and Ors.* [W.P.(C) 5358/2014, decided on 02.02.2015]. That case too was concerned with Khasra No.1403 in Village Tihar.

The respondents dispute the petitioner's submission and contend that the original land owner received compensation. It was also submitted that the petitioner's title or ownership cannot be accepted since the recorded owner was somewhere else; even the Award does not show that the petitioner had participated in the proceeding.

The relevant discussion in *Harbans Kaur (supra)* is as follows:

> *"2. It is the case of the petitioners that physical possession of the subject land has not been taken by the land acquiring agency. On the other hand, it is the case of the respondents that physical possession of the said land was taken on 07.06.1967. The learned counsel for the petitioners has drawn our attention to various documents which have been filed along with the rejoinder affidavit at pages 114,117,123,126,129 and 131 which indicate that the physical possession of the subject land could not be taken because the same was built up. We need not refer to those documents inasmuch as the fact that the physical possession has not been taken and that only paper possession was taken has been recorded in the order of this court in W.P.(C) 6949/2012. The order was passed on 07.01.2013 where it has clearly*

been indicated that only paper possession was taken and physical possession had not been taken. Therefore, we will have to hold that the physical possession of the subject land is with the petitioners and not with the land acquiring agency. Insofar as the question of compensation is concerned it is the case of the respondents that the same was deposited in the reference court on 13.11.1967 and 31.05.1967. It is the case of the petitioners that the compensation was not offered to the petitioners and therefore in view of the decision of the Supreme Court in Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC 183, the same cannot be regarded as compensation having been paid to the petitioners.

3. We are not entering into the arena of controversy insofar as compensation is concerned because the position with regard to the physical possession is clear. Physical possession of the subject land has not been taken by the land acquiring agency. The award was admittedly made more than five years prior to the commencement of the 2013 Act. The second proviso to section 24(2) of the 2013 Act is also not available to the respondents inasmuch as the Supreme Court in M/s Radiance Fincap (P) & Ors. v. Union of India & Ors. decided on 12.01.2015 in Civil Appeal No.4283/2011 and Karnail Kaur & Ors v. State of Punjab & Ors, Civil Appeal No. 7424/2013 decided by the Supreme Court on 22.01.2015, has held that the said second proviso to section 24(2) of the 2013 Act has prospective operation from 31.12.2014 and does not taken away vested rights which accrued in favour of the petitioners on 01.01.2014 when the 2013 Act came into effect. Thus, all the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:- (i) Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki

and Ors: (2014) 3 SCC 183; (ii) Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC 564; (iii) Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No. 8700/2013 decided on 10.09.2014; (iv) Surinder Singh vs. Union of India and Ors.: W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

4. As a result the petitioners are entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared."

The facts of the present case are identical to that in *Harbans Kaur (supra)* in that the Khasra number is the same, i.e. 1403 in Village Tihar. As a result, the writ petition has to succeed. A declaration is issued that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with respect to the suit lands are deemed to have lapsed. This, however, does not prevent the respondents from taking fresh steps to acquire the lands under the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*. The writ petition is allowed in the above terms along with the pending application.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

MAY 02, 2017/AJK