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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7363/2015, C.M. APPL.13548/2015 & 35595/2016**
SHARDA RAM Petitioner
Through : Sh. Anuroop. P.S., Advocate.

versus

LAND ACQUISITION COLLECTOR & ANR Respondents
Through Sh. Yeeshu Jain, Standing Counsel with
Ms. Jyoti Tyagi, Advocates.
Sh. Manoj Kumar Sharma, Advocate, for
Respondent No.2.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
% **21.08.2017**

The petitioner seeks a direction that the suit lands to the extent of 15 bighas forming part of Khasra no. 399/265/1, Village Chilla Saroda Bangar are free from acquisition.

In this case, the Notification under Section 4 of the *Land Acquisition Act, 1894* [hereafter “the 1894 Act”] was issued on 17.11.1980. The declaration under Section 6 of the 1894 Act was issued on 29.09.1981 and the Award no. 39/82-83 was made on 30.09.1982. The petitioner contends that no compensation was paid, and neither was possession of the lands taken. He premises the present proceedings on a sale deed executed on 01.08.1980 in his favour by the original land owner - Chet Ram.

The respondents firstly contend that the counter affidavit of the GNCTD is to the following effect:

“5. That the present writ petition is liable to be dismissed as the total extent of land falling in khasra number 399/265 min is 68 bigha 3 biswa and the recorded owner for the said land is Gaon Sabha and the petitioner has wrongfully claiming its ownership over the same. It is submitted that at some places in the revenue record, the description of land with the said khasra number is also given as 399/265/1. It is submitted that out of the said land measuring 68 bigha 3 biswa, the actual vacant physical possession of the land measuring 38 bigha 3 biswa was duly taken on the spot vide possession proceedings dated 1.10.1982 and handed over to the requisition agency on the spot. The petitioner has not disclosed as to whether the land claimed under the present writ petition i.e. 15 biswa, would form part of the land of which the possession has been taken by the government or the same formed part of the land which the possession have not been taken. The petitioner has also not placed any photograph on record to show that the petitioner is in actual physical possession of the subject land thus the petitioner has wrongly claimed that the physical possession of the land has not been taken. The compensation of the said land could not be paid.”

It is, however, also urged that the petitioner is a purchaser of the land after it vested with the Gram Sabha. In this regard, the relevant extracts of the *khatauni* are relied upon to say that vesting under Section 81 of the *Delhi Land Reforms Act, 1981* took place on different dates in 1980-81.

In this case, the petitioner's sale deed – executed by the original owner was contemporaneous to the land acquisition. The award was

made in 1982. Though the respondents assert that the petitioner never claimed compensation, the averment in the counter affidavit clearly is to the effect that the compensation was not paid (which is the relevant criteria under the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* [hereafter “the 2013 Act”] in tune with the judgment in *Pune Municipal Corp. & Anr. v. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183.

Furthermore, the Court also notices that the possession of only a portion of the acquired land to the extent of 30 bighas was taken over on 01.10.1982 with other parts of the land remaining undisturbed.

Having regard to these circumstances, the Court is of the opinion that the Section 24(2) of the 2013 Act is applicable in line with the Supreme Court’s ruling in *Pune Municipal Corporation (supra)*.

Accordingly, a declaration is issued that the acquisition in respect of the suit land, i.e 15 bighas out of Khasra no.399/265/1, Village Chilla Saroda Bangar has lapsed under Section 24(2) of the 2013 Act. The petition is accordingly allowed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

AUGUST 21, 2017/ajk