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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7447/2015, C.M. APPL.13751/2015**

BAL KISHAN KAPAH Petitioner
Through : Sh. A. Maitri and Ms. Radhika
Chandrashekhar, Advocates, for petitioner.

versus

UNION OF INDIA & ORS Respondents
Through : Sh. Arjun Pant, Advocate, for DDA, in
Item Nos. 8 and 9.
Sh. Yeeshu Jain, Standing Counsel and Ms. Jyoti
Tyagi, Advocate, for L&B, in Item Nos. 8 and 9.

CORAM:

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

ORDER
% **24.08.2017**

The petitioner claims a direction that the suit lands measuring 3 bighas 17 biswas and 17 biswas in Khasra Nos.412(min), 414(min) and 2 bighas 11 biswas 4 biswas of Khasra No.420 (min) of Village Shahoorpur, Tehsil Hauz Khas (Mehrauli) [hereafter referred to as “the suit lands”] to be declared to be free from acquisition in view of Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* [hereafter “the 2013 Act”]

The admitted facts are that the Notification under Section 4 of the *Land Acquisition Act, 1894* [hereafter “the 1894 Act”] was issued on 25.11.1980; the declaration under Section 6 of the 1894 Act was

issued on 20.05.1985. The Award in respect of the suit lands as well as other acquired properties were delivered by common Award, i.e. 10/87-88.

It appears that possession of the suit lands, including other lands was taken on 01.05.2013 by the appropriate government. The petitioner further contends that since the compensation was not paid in accordance with the interpretation placed by the Supreme Court in *Pune Municipal Corp. & Anr. v. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183, the relief claimed should be granted.

It is pointed out in the counter affidavit that the petitioner has no *locus standi* since he relies upon an Assignment Deed said to have been executed in April 2012 whereas the suit lands were transferred or conveyed to Sh. Sanjay Choudhary and Sh. Ravi Sharma for ₹ One Crore. It is stated that in these circumstances, since the petitioner has lost all manner of rights or title to the suit lands of which possession was taken, and he even received consideration far in excess of the assessed compensation, the question of release of land does not arise.

The counter affidavit states as follows:

“8. That the present writ petition is liable to be dismissed as the petitioner has contended in para 7-11 of the writ petition that notice u/s 12(2) of the Act was never given to the petitioner whereas in the said purported 'Assignment Deed' showing the date as April 2012, the very same petitioner has admitted of initiation of acquisition proceedings including passing of Award No.10/87-88. The petitioner has not pleaded anywhere in the writ petition as to when it to to know of passing of Award and why it did not challenge the acquisition

proceeding/Award at the early available instance. It is submitted that besides all the vague pleadings, the present writ petition is also barred by principle of delay and laches. The present writ petition is also bad for non-joinder of necessary party as the petitioner has not impleaded the DDA as a necessary party for the reasons best known to it.

9. *That it is submitted that vide Notification under section 4 of the Land Acquisition Act, 1894 dated 25.11.1980 which was followed by the Notification under section 6 of the Act dated 20.5.1985, the lands falling in revenue village Shayoorpur including the subject land was notified for acquisition for public purpose. The Award was also passed vide Award No. 10/87-88 and the actual vacant physical possession of the subject land of khasra number 412 (2-10) and 414 (4-10) was duly taken on the spot on 1.5.2013 by preparing possession proceeding on the spot and was handed over to the DDA on the spot. There was a delay in taking possession because of stay granted by the Hon'ble High Court of Delhi in WP(C) No. 2276/85 (Balkishan Kapahi vs. uoi), which ultimate got vacated on 08.07.2010 with the dismissed of SLP No. 11240/2006 Om Parkash Vs. UOI. The actual vacant physical possession of khasra number 420 (4-06) was taken on 30.4.2013 on the spot and handed over to the DDA on the spot by preparing possession proceeding on the spot. The compensation amount of Rs.3,30,783.49 of the same was sent to the Court of ADJ vide cheque number 456944 dated 20.12.2013. The copies of possession proceeding is annexed herewith as Annexure R -1."*

In the present case, there is no denial that the possession of the suit lands was taken prior to the coming into force of the 2013 Act. By that time, the petitioner had already washed his hands of the suit

land in that the property had been sold/assigned to a third party. In these circumstances, the Court is of the opinion that the petitioner lacks *locus standi* to prosecute these proceedings. The writ petition is accordingly dismissed along with the pending application.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

AUGUST 24, 2017/ajk