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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: August 22, 2017

+ **W.P.(C) 7409/2015 & C.M.13660/2015**
JAIPAL AND ORS. Petitioners
Through: Mr. Anuroop P.S., Advocate
versus

UNION OF INDIA AND ANR.Respondents
Through: Mr. Dhanesh Relan, Ms. Akshita
Minocha and Mr. Gauri
Chaturvedi, Advocates for
respondent-DDA
Ms. Saroj Bidawat, Advocate for
respondent-UOI

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

S. RAVINDRA BHAT, J. (OPEN COURT)

Counter-affidavit is taken on record with the consent of petitioners' counsel.

The claim in these proceedings is for a direction that the subject lands being Khasra Nos.808/134 (02-01), 196 (02-17), 725/231 (03-17), 233 (01-09), 321min (02-11), 780/409 (04-19), 869/451 (02-17), 579min (04-12), 586min (05-09) measuring 30 bigha 12 biswas situated in the Revenue Estate of Village Maidan Garhi, Tehsil-Saket, New Delhi, are free from acquisition on account of the provisions of *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and*

Resettlement Act, 2013 [hereafter “the 2013 Act”].

The facts are that by Notification dated 25th November, 1980, large tracts of lands including the subject lands were sought to be acquired under *The Land Acquisition Act, 1894* [hereafter “the Old Act”]. A declaration under Section 6 of the Old Act was issued on 7th June, 1980. The Award in case of the subject lands and other properties was made on 17th June, 1987. The possession of subject lands was taken by the Appropriate Government on 16th July, 1987.

Arguing that the respondent/Govt. of NCT of Delhi has not paid determined compensation, the petitioners or the legal representatives/heirs of some of the original owners of the subject lands have approached the Court under Article 226 of the Constitution of India. They rely upon Section 24 (2) of the 2013 Act as well as the judgment of the Supreme Court in *Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & Ors.*, (2014) 3 SCC 183.

The respondents have filed counter-affidavits. The Land Acquisition Collector’s counter-affidavit *inter alia* states as follows: -

“4. That the present writ petition is liable to be dismissed as the petitioners have mislead the Hon’ble Court by contending that neither the physical possession of the subject land could be taken nor the compensation has been paid. The records however, revealed that the actual vacant physical possession of the subject land was taken on the spot on 16.7.1987 by preparing possession proceedings on the spot and handed over to the DDA on the spot. The compensation for the said land was also paid to the respective share holders as follows:-

<i>S.No.</i>	<i>NAME</i>	<i>AWARD NO.</i>	<i>AMOUNT</i>	<i>REMARKS</i>
<i>1.</i>	<i>Daya Nand</i>	<i>23/87-88</i>	<i>165407.86</i>	<i>Paid to legal heirs from 1.1 to 1.2</i>
<i>1.1</i>	<i>Kawal Singh</i>	<i>23/87-88</i>	<i>55135.95</i>	<i>Paid vide ch.No.82761 dated 23/09/87</i>
<i>1.2</i>	<i>Mahabir</i>	<i>23/87-88</i>	<i>55135.95</i>	<i>Paid vide ch.No.82765 dated 23/09/87</i>
<i>1.3</i>	<i>Shriram</i>	<i>23/87-88</i>	<i>55135.96</i>	<i>No mention in the Statement-A, if paid or not</i>
<i>2.</i>	<i>Richpal</i>	<i>23/87-88</i>	<i>165407.87</i>	<i>Paid vide ch.No.82764 dated 23/09/87</i>
<i>3.</i>	<i>Munshi</i>	<i>23/87-88</i>	<i>165407.87</i>	<i>Paid vide ch.No.82769 dated 23/09/87</i>
<i>4.</i>	<i>Padam Singh</i>	<i>23/87-88</i>	<i>165407.87</i>	<i>Paid to legal heirs from 4.1 to 4.4</i>
<i>4.1.</i>	<i>Jagdish</i>	<i>23/87-88</i>	<i>33082.57</i>	<i>Paid vide ch.No.82730 dated 23/09/87</i>
<i>4.2</i>	<i>Jagbir</i>	<i>23/87-88</i>	<i>33081.57</i>	<i>Paid vide ch.No.82771 dated 23/09/87</i>
<i>4.3</i>	<i>Satvir</i>	<i>23/87-88</i>	<i>33081.57</i>	<i>Paid vide ch.No.82772 dated 23/09/87</i>
<i>4.4</i>	<i>Jaipal</i>	<i>23/87-88</i>	<i>33081.58</i>	<i>Paid vide ch.No.82773 dated 23/09/87</i>
<i>4.5</i>	<i>Rajpal</i>	<i>23/87-88</i>	<i>33081.58</i>	<i>No mention in the Statement-A, if paid or not</i>

5.The petitioner has not disclosed as to why only two legal heirs have not taken the compensation while the majority of the claims have been paid as per the table given above.

6. That it is submitted that the lands of village Maidan Garhi were notified 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 7.6.85. The Award was also passed vide Award No.23/87-88 dated 17.6.87 and the possession of the land under reference was taken on 16.7.1987 and the compensation also stands paid.”

It is clear from the above pleadings that the possession of the subject land was taken on 16th July, 1987. Either the land owners or the legal representatives were paid the compensation in respect of the majority of the acquired lands, as is evident from the disclosure made in the Land Acquisition Collector's affidavit.

In these circumstances, neither of the contingencies which can entitle the land owners to relief under Section 24 (2) of the 2013 Act, is fulfilled.

The writ petition alongwith the pending application is therefore dismissed.

S. RAVINDRA BHAT
(JUDGE)

SUNIL GAUR
(JUDGE)

AUGUST 22, 2017

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