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

% Judgement delivered on: 24th April, 2017

+ **W.P.(C) No.7468/2015 & CM No.13786/2015**

RATTAN SINGH & ORS.

..... Petitioners

Through : Mr.B.S.Mathur, Mr.Rajat Mathur and
Ms.Aditee Mathur, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Mr.Bhagwan Swarup Shukla, CGSC
with Mr.R.C.Bhatiya, Advocate for
UOI/Respondent No.1.
Ms.Mrinalini Sen & Ms.Kritika
Gupta, Advocates for DDA.
Mr.Pawan Mathur, Advocate for
DDA.
Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocates for
L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

S.RAVINDRA BHAT, J. (Oral)

1. Late Bharat Singh, the father of the petitioners was a recorded owner of the land bearing khasra No.9//2(4-16), 3(4-16), 7(4-16), 8(4-16), 9(4-16), 13(4-11), 14(4-16), 17(4-16), 18(4-16), 27(0-5), 30//9(4-16), 11(4-16), 20/1(2-4), 31//16(4-11), 26(0-5) total measuring 59 bighas 16 biswas situated in the revenue estate of Village Tikri

Khurd, Delhi. The father of the petitioners expired on 23.04.2015.

2. On 23.02.2006, notification No.F.11(92) 2004/L&B/LA/14103 dated 23.02.2006 was issued under Section 4 of the Land Acquisition Act, 1894 (“the Act”) to acquire the land situated in the revenue estate of Village Tikri, Khurd for the planned development of Delhi. The built up land of the petitioners was also included in the impugned notification. On 22.02.2007, the notification under Section 6 was issued and in 2009, award No.10/2008-09/DC(N-W) was made under Section 11 of the Act.

3. The petitioners submit that after the notification of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, they are now entitled to the benefit under Section 24(2) as despite the award being made in the year 2009, they are still in physical possession of the land in question and are actually cultivating crops on it. Hence they desire that the declaration issued qua acquisition of their land be declared as lapsed.

4. The respondents No.2 and 4 have filed the counter affidavits wherein both have alleged that the subject lands, measuring 59 bighas 16 biswas in total situated in the revenue estate of village Tikri Khurd, were notified under Sections 4 and 6 of the Act and the physical possession of the land was taken by the Land Acquisition Collector/L&B, Government of NCT of Delhi and handed over to the DDA on 21.06.2011, as per possession proceedings dated 22.06.2011

annexed along with the counter affidavits. It is further alleged by the appropriate Government that the compensation was paid to the recorded owner(s) way back in the year 2011 itself by cheque No.260307 dated 04.07.2011 amounting to Rs.3,81,95,645/-.

5. The petitioners do not deny that the compensation was received by them, but allege that the physical possession is still with them. Their allegation appears to be incorrect in view of the possession proceedings dated 22.06.2011 filed by the appropriate government that is a part of the record.

6. Thus, whether the possession of the land has been taken over by the appropriate Government and the compensation duly paid or not, the legal heirs of the recorded owner cannot be said to be entitled to the benefit under Section 24(2) of the Act.

7. At this stage the learned counsel for the petitioner argues that the Government of NCT of Delhi has announced a special rehabilitation package for the people affected by the land acquisition in respect of the cases in which the land acquisition award has not been announced till 08.12.2007. The counsel further contends that the award in the present case qua 1492 bigha 8 biswa and 15 biswani of village Tikri Khurd is also included in such rehabilitation package. We disagree. If the appropriate government has announced any scheme for the benefit of the owners, the applicability of such a scheme could never be a part of Section 24(2) of the Act. If the petitioner's case is covered under the said scheme, he may avail such

benefit separately by applying under it. Once the land is acquired, possession is taken and the compensation paid, the petitioner's case shall not be covered under Section 24(2) of the Act and hence this petition has no merit and is dismissed. Consequently, the miscellaneous application is also dismissed.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 24, 2017

M/VLD/RS

