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

DECIDED ON : 18th JULY , 2017

+ **W.P.(C) 8205/2015 & CM APPL. 17194/15**

CHET RAM & ORS Petitioners

Through : Mr.Inder Singh, Advocate.

versus

LAND ACQUISITION COLLECTOR SOUTH-EAST & ORS.

..... Respondents

Through : Ms.Himani Kaushik, Advocate for
Mr.Sushil Dutt Salwan, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

1. In the instant writ petition, the petitioners claim themselves to be recorded owners of the land of Khasra No. 754(8-0) measuring 8 bighas situated in the Revenue Estate of Village Tughlaqabad, Delhi. The petitioners claim is that acquisition of their lands (hereinafter referred to as 'suit land') has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

2. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 23.01.1965; it included the suit land. A declaration was issued under Section 6 on

13.01.1969. The award bearing No.50A/SUPP./69-70 dated 04.11.1981 was made by the Land Acquisition Collector.

3. The petitioners aver that pursuant to the award, neither physical possession of the suit land was taken over by the respondents nor any compensation in respect thereof was ever paid or tendered. Relying upon *Pune Municipal Corporation & Anr. vs. Harakchand Misirimal Solanki & Ors.*, 2014 (3) SCC 183, counsel urged that the acquisition has lapsed since five year period indicated in Section 24(2) of the Act has ended.

4. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, significantly makes the following admission :

“5. That the revenue records notes that the physical possession of the subject land falling in khasra number 754 (8-00) has been taken. As per Naksha Muntazamin, compensation could not be paid. The statement is not available.”

5. It is evident that the counter-affidavit does not reveal if any compensation for the acquisition of the land in Khasra No. 754(8-0) was paid to the recorded owner(s).

6. The Supreme Court in *Pune Municipal Corporation* case (supra) dealt with the issue, i.e. as to whether compensation amount has to be actually paid, or deposited. That decision clarified that mere deposit of the amount in the Treasury would not fulfill requirement of Section 24(2) and that there should be a positive step to appropriate the concerned amount and make it available to the land owner, i.e. by way

of payment under Section 31(2) of the old Act, or by deposit of the compensation in Court.

7. As the respondents have not denied that the compensation of the suit land in Khasra No. 754(8-0) has not paid or tendered, in the present case, the petitioners are entitled to the declaration sought to that extent. Accordingly, it is held that acquisition of suit land in Khasra No. 754(8-0) vide award No.50A/SUPP./69-70 dated 04.11.1981 is deemed to have lapsed by virtue of Section 24(2) of the Act.

8. The writ petition is allowed in the above terms. Pending application also stands disposed of.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

JULY 18, 2017 / tr