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

+ W.P.(C) 8900/2015 & CM No.20000/2015

NIRANJAN SINGH & ORS. Petitioners

Through: Mr. R.B. Singh with Ms. Tanika
Jaswal, Advs.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Anil Panwar, CGSC with
Ms. Mani Chaudhary, Adv. for R-1.
Mr. Yeeshu Jain with Ms. Jyoti Tyagi, Advs. for
L&B/LAC.
Ms. Mrinalini Sen with Ms. Kritika Gupta, Advs.
for R-4/DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

04.08.2017

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1. On the previous date of hearing, this Court had required the petitioners to clarify the correct position with respect to their ownership. Accordingly, in compliance with the order, they filed an additional affidavit enclosing copies of the *Khatauni* for relevant period and the mutual family partition dated 29.07.1994. The *Khatauni* and the translated copy thereof were part of the record; which reveal that one of the petitioners Niranjan Singh is entitled to 1/6th share and the other four petitioners are entitled to 4/24th share each – in character working out to be 1/6th share. The other petitioners are the son of Balkishan who was the co-sharer of Niranjan Singh; the first petitioner. Put together, the petitioners' shares work out to 1/3rd of the total extent in accordance with the *Khatauni* for the period 2003-04.

2. The pleadings would reveal that the notification under Section 4 of the Land Acquisition Act, 1894 (hereafter referred to as “the Act”) was issued on 21.03.2003, in respect of 2480 bigha 1 biswa in Village Mubarakpur Dabas; these included the suit lands. A declaration was issued under Section 6 on 19.03.2004 and the award was later announced being Award No.16/2005-06 – on 14.09.2005. The petitioners claim that Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 operated and that their lands being khasra No.23/7/2 (2-8), 23/15 (4-16), 23/16 (4-16) and 23/25 (4-12) total measuring 16 bigha and 12 biswa situated in the revenue estate of Village Mubarakpur Dabas should be declared land acquisition free.

3. The Land Acquisition Collector/the appropriate Government in the affidavit states as follows:-

“4. That the present writ petition is liable to be dismissed as the partial possession of the subject land has been taken by the answering respondent and handed over to the DDA on the spot on 3.1.2007, 7.4.2006 and 4.4.2006 respectively. The writ petition is further liable to be dismissed as for the two khasra numbers out of the total four khasra numbers as claimed in the writ petition, the Hon’ble Court has already allowed the writ petition of the recorded owners vide W.P.(C) No.2679/2014 thus the present writ petition is liable to be dismissed on the principles of res-judicata. The present writ petition is further liable to be dismissed as the petitioners are not the recorded owners of the subject land falling in khasra numbers 23//7/2 (2-08), 23//15 (4-16), 23//16 (4-16) and 23//25 (4-12) nor the petitioners have averred any substantial material in the writ petition to substantiate their claim over the said khasra numbers. The recorded owners of the subject lands were Rajvir

Singh, Vijender Singh and Dharmender etc. The petitioners have also not defined their respective share in the subject land.

5. That it is submitted that the lands of village Mubarakpur Dabas were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The Award was also passed vide Award No. 16/2005-06 dated 14.9.2005 and which acquisition proceedings were apparently never challenged by the petitioner. In pursuance of the said Award, the answering respondent has actual vacant physical possession of khasra numbers 23//7/2 (2-08), 23//15min (1-00), 23//16min (1-00) total (4-08) on the spot by preparing possession proceeding on the spot and handed over the same to the DDA on the spot on 3.1.2007, 7.4.2006 and 4.4.2006 respectively. The possession of rest of the land however could not be taken and the compensation also could not be paid to its recorded owners.”

4. It was in the context of the above averments that the petitioners were required to clarify their status *vis-a-vis* their ownership. Their additional affidavit now reveals that they are – in effect, cumulative owners of 1/3rd share. The petitioners can only seek declaration with respect to their lands in respect of khasra No.23/7/2 (2-08) and 23/25 (4-12) i.e. total measuring 7 bigha in revenue estate of Village Mubarakpur Dabas.

5. In view of the above discussion, it is held that the acquisition in respect of the suit lands and to that extent i.e. khasra No.23/7/2 (2-08) and 23/25 (4-12) is deemed to have lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

S. RAVINDRA BHAT, J

AUGUST 04, 2017/kks

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