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

DECIDED ON : 17th JULY , 2017

+ **W.P.(C) 8907/2015 & CM APPL. 20014/2015**

SUNIL Petitioner
Through : Ms.Minal Sehgal, Advocate.

Versus

UNION OF INDIA & ORS. Respondents
Through : Mr.Ajay Verma, St.Standing Counsel
with Mr.Sanjeev Sabharwal, Standing Counsel for
DDA.
Mr.R.A.Iyer, Advocate for Mr.Gautam Narayan,
ASC for R3 & R4.
Mr.Yeeshu Jain, Standing Counsel with Ms.Jyoti
Tyagi, Advocate for L&B /LAC.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE S.P.GARG

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

1. The petitioner seeks a declaration that the acquisition of his land measuring 442 sq.yards (24 x 166) out of Khasra No.341-342/83/2(min), Village Saroda Bangar, Revenue Estate Shahdara, Delhi (hereinafter referred to as 'suit land') has lapsed in terms 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 petitioner avers that his father Ch.Suraj Singh had purchased the suit land from one Harkesh (the recorded owner) on 10.08.1992 by way of execution of GPA, Agreement to Sell, etc. A kuchcha room was constructed on the suit land and business of dairy farm was carried out thereon. Ch.Suraj Singh expired on 03.02.1996. The petitioner continues to be in physical possession of the suit land.

3. It is further averred that land measuring 1058 bighas and 9 biswas in village Chilla Saroda Bangar which included the suit land was acquired by the Land Acquisition Collector, Delhi, vide Award No.52-E/71-72 (Supplementary). After the award though the possession of the agricultural land / open land was taken by the Land Acquisition Collector but possession of the certain built up properties was not taken. Consequently, the possession of the suit land was not taken over due to pakka / built up area. It is further claimed that the compensation has not been offered or tendered to the petitioner for the acquisition of the suit land.

4. The respondent No.1 through LAC, in its counter-affidavit, denied it. It reads :

“4. That the present writ petition is further liable to be dismissed as the petitioner has not placed on record any document showing therein their entitlement over the subject land as he is not the recorded owners in the revenue records thus the petitioners are not entitled to any relief before the Hon'ble Court under the writ jurisdiction. The writ petition is further liable to be dismissed as the person namely one Harkesh through whom the petitioner has claimed to have get executed the inadmissible title documents such as "CPA/ WILL/ Agreement to Sell" is also not the

recorded owner of the subject land falling in khasra number 341-342/83/2 min which was acquired in two parts for (1-02) and (2-10) respectively under the Award No. 52-E/71-72 (Suppl) in village Chilla Saroda Bangar. It is pertinent to mention here that the petitioner has been claiming relief of 442 sq. yds out of the total land.

4A. That the present writ petition is liable to be dismissed as the Gaon Sabha has been shown has been shown as recorded owner for the above-said khasra number having min for (1-02) whereas the other min for (2-10) have been shown in the names of private persons. The writ petition is liable to be dismissed as the petitioner has not impleaded the Gaon Sabha as a necessary party in the present writ petition.

5. That it is submitted that for purposes of planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 13.11.1959 which was followed by Notification u/s 6 of the said Act dated 20.6.1966 for the acquisition of the lands falling in the khasra numbers under reference in village Chilla Saroda Bangar. That an Award bearing no. 52-E/71-72 (Suppl.) also came to be passed and the actual physical possession of (1-12) out of the khasra number 341-342/83/2 min which was acquired in two parts for (1-02) and (2-10) respectively was duly taken on the spot by preparing possession proceeding and handed over to the DDA on the spot. It is further submitted that having an apportionment dispute, the compensation for various khasra numbers including the khasra under reference and having min (1-02) was sent to the Reference Court u/s 30-31 of Land Acquisition Act, 1894 for asum of Rs. 10,87,645.12 on 16.4.1978. It is further submitted that as per statement

A, the compensation of the land for other min i.e (2-10) in the said khasra number along-with other khasra numbers, a sum of Rs. 1,35,117.44 was paid to the recorded owners however the payment register is not traceable in the office of the answering respondent, thus it could not be informed at this stage as to how much amount has been paid for which khasra number and to whom. It is humbly submitted that the answering respondent was trying to relocate the the payment file which caused delay in filing the present counter affidavit.”

5. It is evident that the petitioner is not the recorded owner of the suit land falling in Khasra No.341-342/83/2(min) which was acquired in two parts for (1-02) and (2-10) respectively under the Award No.52-E/71-72 (Suppl). It further discloses that Gaon sabha has shown to the recorded owner for the above-said khasra number having (min) for (1-02) whereas the other (min) for (2-10) have been shown in the names of private persons. Actual physical possession of the suit land has already been taken and handed over to DDA. It further records that having an apportionment dispute, the compensation in various khasra numbers including the suit land was sent to the Reference Court under Section 30-31 of the old Act for a sum of ₹10,87,645.12 on 16.04.1978 for land having min (1-02). Compensation of the land for other min i.e. (2-10), amounting to ₹1,35,117.44 was paid to the recorded owners.

6. The petitioner's father allegedly purchased the suit land in question from one Harkesh in 1992 on the basis of GPA, Agreement to Sell, Will, etc. The petitioner or his father never got the property

mutated in their names. Nothing is on record to infer if any intimation was ever given by the petitioner or his father to the concerned authorities regarding purchase of the property in question. These documents i.e. GPA, Agreement to Sell, etc. even are not registered. The petitioner has not placed on record any cogent or credible document to show if Harkesh from whom the property in question was purchased was the recorded owner of the suit land.

7. Since the petitioner has not filed any document on record to show as to how he was entitled to receive compensation, relief claimed cannot be granted to him under Section 24(2) of the Act.

8. The petition is dismissed. Pending application also stands disposed of.

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

**S. RAVINDRA BHAT
(JUDGE)**

JULY 17, 2017 / tr