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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
DECIDED ON : AUGUST 08, 2017

+ **W.P.(C) 10312/2015 & CM APPL.25681/2015**

UDAI SINGH & ORS. Petitioners
Through : Mr.Arun Kumar Kaushik, Advocate.

versus

UNION OF INDIA & ORS. Respondents
Through : Mr.Siddharth Panda, Advocate for
LAC/L&B.
Mr.Arjun Pant, 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. The petitioners claim themselves to be recorded owners of the land of Khasra No.504 (4-15) measuring 4 bighas and 15 biswas, to the extent of 11/32 share, situated in the Revenue Estate of Village Madanpur Khadar, Tehsil Kalkaji, District South-East, 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. A notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 23.06.1989; it included the suit land. A

declaration was issued under Section 6 & 17 on 22.06.1990. The award bearing No.20/92-93 dated 19.06.1992 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, states in Para 6 :

“That the land in question i.e., Khasra No. 504(4-15) ad-measuring 04 bighas and 15 biswas, situated at the Revenue estate of village Madanpur Khadar, New Delhi was notified under section 4 of Land acquisition Act on 23.06.1989 followed by declaration under section 6 & 17 of Land Acquisition Act on 22.06.1990 for Planned Development of Delhi. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims were also filed by the interested persons. The then Land Acquisition Collector passed Award No. 20/92-93 dated 19.06.1992 after considering the claims of the claimants. Further, possession of the land bearing Khasra No. 504 (4-15) was taken over by the beneficiary department on 03.12.2012. The Petitioner has not provided any title document in his favour and as per the Naksha Mutzamin, the recorded owners of the land in question is (1) Jeet Singh S/o. Durga, (2) Sukho Widow of Ghumi, (3) Sanki widow of Ghumi (4) Udai Singh w/o Ghumi (5) Bhaan Singh s/o

Ghumi (6) Baleshwar Singh S/o. Ghumi (7) Balle s/o Ghumi (8) Shilawati D/o. Ghumi (9) Satawati d/o Ghumi (10) Shusila D/o. Ghumi. The land in question is also subject matter of WP(C) No. 1234/ titled as Shram Vihar Vs. UOI, which is pending adjudication Before the Hon'ble High Court of Delhi.”

5. It is evident from the contents of the counter affidavit that compensation for acquisition of the suit land was not tendered or paid to the recorded owner(s). There is no specific assertion by the respondent if compensation was paid to the recorded owner(s) and if so to what extent. In the rejoinder, the petitioners elaborated that their names were clearly mentioned in the revenue records i.e. Khatauni/Jamabandi (Annexure-A). The petitioners were the owners/bhumidar of the land bearing Khasra No.504 (04-15), to the extent of their respective joint share i.e. 11/32 share. It was further stated that the Reference Petition was sent by respondent No.4 after the commencement of the New Act under Sections 30-31 of the Old Act without any dispute among co-owners.

6. The respondents did not deny the averments made in the rejoinder. It was not explained as to why the compensation was sent under Sections 30/31 of the Old Act, and if so when.

7. Apparently, the petitioners have not been paid or tendered any compensation.

8. 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.

9. As the respondents have not denied that the compensation of the suit lands has not been paid, the petitioners are entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra No.504 (4-15) ad-measuring 4 bighas and 15 biswas, to the extent of 11/32 share, situated in the Revenue Estate of Village Madanpur Khadar, Tehsil Kalkaji, District South-East vide 20/92-93 dated 19.06.1992 is deemed to have lapsed by virtue of Section 24(2) of the Act.

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

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

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 08, 2017/sa