

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

Date of Decision: September 07, 2017

+ **W.P.(C) 10501/2015 & C.M.26459/15**

TARAPORE CONSTRUCTIONS (P) LTD. Petitioner

Through: Ms. Deepika V. Marwaha, Adv.
with Mr. Vinay K. Shailendra and Ms.
Worthing Kasar, Advs.

Versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ORSRespondents

Through: Mr. Yeeshu Jain, Adv. with Ms.
Jyoti Tyagi, Adv. for respondent-LAC/L&B
Mr. Dhanesh Relan, Standing Counsel with Ms.
Isha Garg, Advocate for respondent-DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J. (OPEN COURT)

1. The petitioner seeks a direction that it's lands i.e. Khasra Nos. 1169/2 min (0-6), 1169/1 min (0-14), 1160 min (0-1), 1166 min (0-12), 1169/1 (0-3) ad-measuring 2 Bigha situated in Revenue Estate of Village Malikpur Kohi @ Rangpuri, New Delhi are free from acquisition by reason 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 of 2013').

2. The Appropriate Government acting under Section 4 of *the Land Acquisition Act (of 1894)* (hereinafter referred to as '*the old Act*') issued a Notification on 27th June, 1996 stating a public purpose of developing housing. The petitioner's lands (hereinafter referred to as '*Suit Lands*') were included in the Notification. Later, on 10th January, 1997, a declaration was issued under Section 6 of *the old Act*. The Award was apparently made on 7th January, 1999 (Award No.2/1998-99). The petitioner claims to have acquired the suit lands through Sale Deed dated 18th May, 1995 and had the transfer/conveyance appropriately noted in the revenue records. It is contended that since neither possession was taken nor was compensation paid in accordance with the law, therefore, by reason of Section 24 (2) of the Act of 2013, the acquisition has lapsed.

3. The respondent-Appropriate Government in its counter affidavit states *inter alia* as follows: -

"6. That it is submitted that many of the land owners filed various writ petitions including the lead case being Civil Writ Petition No.1953/1997 titled Vasant Kunj Enclave Housing Welfare Society Vs. Union of India & Ors. before this Hon'ble Court for quashing of the Notifications dated 27.06.1996 issued by the Government of NCT of Delhi under Section 4 read with Section 17(1) & (4) dispensing with Section 5-A and Notifications dated 10.01.1997 issued under Section 6 of the Land Acquisition Act. In the said writ petitions, interim stay/status quo orders were passed in favour of the petitioners therein as early as on 16.12.1996. The said writ petitions lead case being WP(C) No.1953/1997 were disposed on 04.05.2012 whereby Section 6 and 17 was quashed quo the petitioners therein. Thereafter, the public notice issued by the answering respondent on 21.

11.2012 inviting objections from interested persons under Section 5A of the Old Act were challenged in two writ petitions being WP(C) No.7795/2012 and WP(C) No.7802/2012 and the same was stayed vide interim orders dated 19.12.2012 and further, in WP (C) No.7802/2012 vide 11.10.2013 the parties were directed to maintain status quo. Aforesaid writ petitions i.e. W.P.(C) No. 7795/2012 and W.P.(C) No. 7802/2012 were dismissed as withdrawn on 05.11.2014 and 12.10.2015 with liberty to seek remedy individually by land losers. Thus, interim order/stay with respect to the subject khasra Nos. remained in force till 12.10.2015. Thus, acquisition proceedings again remained interdicted by interim orders of this Hon 'ble Court.

7. That the acquisition proceedings qua the notified land i.e land notified under Award No. 2/98-99 could not be completed because of the interim orders passed in various writ petitions as the khasra number 1258 as mentioned in present writ petition formed part of writ number 7802/12 and now in view of interim order passed in the present petition which is still in operation.

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9. That as regard possession, it is humbly submitted that the possession of the land in question could not be taken as possession proceeding are yet to be completed. So far as compensation is concerned the compensation amount has not been received from requisitioning authority."

4. The judgments of the Supreme Court commencing from *Pune Municipal Corporation and. Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183 onwards, have consistently held that if either compensation is not paid to the land owner or possession of the land is not taken within five years before coming into force the Act of 2013, the acquisition is deemed to have lapsed. In the present case, the respondent-

Appropriate Government has clearly admitted that the possession of the lands in question (*except Khasra No.1258*) could not be taken. It is however stated that in respect of said Khasra No.1258, a declaration has been issued on 4th July, 2017 because that was part of the lands, which were subject to litigation and consequence of the stay orders by courts in various proceedings.

5. In view of the above facts, a declaration is issued that the suit lands i.e. Khasra Nos. 1169/2 min (0-6), 1169/1 min (0-14), 1160 min (0-1), 1166 min (0-12), 1169/1 (0-3) ad-measuring 2 Bigha situated in Revenue Estate of Village Malikpur Kohi @ Rangpuri, New Delhi are free from acquisition and the acquisition is deemed to have lapsed by virtue of Section 24 (2) of the Act of 2013.

6. The writ petition is disposed of in respect of the suit lands. However, with respect to Khasra No.1258, the petition be listed for further hearing on 9th January, 2018.

**S. RAVINDRA BHAT
(JUDGE)**

**SUNIL GAUR
(JUDGE)**

SEPTEMBER 07, 2017

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