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

+ **W.P.(C) 10621/2015, C.M. APPL.27186/2015**

KULBIR SINGH

..... Petitioner

Through : Ms. Deepika. V. Marwaha, Advocate.

versus

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ORS**

..... Respondents

Through : Sh. Yeeshu Jain, Standing Counsel with
Ms. Jyoti Tyagi, Advocate, for L&B/LAC.

Sh. Dhanesh Relan, Ms. Isha Garg, Ms. Gauri
Chaturvedi and Sh. Harshit Manaktala, Advocates,
for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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07.09.2017

The petitioner seeks a declaration that the suit lands comprising 1 bigha 1 biswa [being Khasra Nos.1426 (2-9) and 1427 (4-16)] situated in the revenue estate of Village Malikpur Kohi @ Rangpuri, Delhi [hereafter referred to as the “petitioner’s suit lands”] 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* (hereafter referred to as “the 2013 Act”).

The facts emerging from the pleadings are that the petitioner became owner of the suit lands measuring 1 bigha 1 biswa out of 6 bighas 7 biswas [being 1/4th share of 25 bighas and 8 biswas in Khasra Nos. 425/1 (3-4), 428 (4-16), 518 (0-7), 520 (0-3), 547 (0-7), 1426 (2-9), 1427 (4-16), 333/2 (1-4),

334 (2-9), 423 (5-13)] situated in Village Malikpur Kohi @ Rangpuri, Tehsil Mehrauli, New Delhi by virtue of registered Sale Deed dated 17.05.1982 executed by Pehlad Singh, Sis Ram, Mukhtiar Singh, sons of Des Ram; Smt. Anguri, Smt. Sharbati and Smt. Savitra, daughters of Des Ram.

It is contended that possession of the suit lands too was handed-over to the petitioner on 17.05.1982 and that on 26.09.1984 the said suit land was duly mutated in the name of the petitioner.

It is stated that the Notification under Section 4 of the *Land Acquisition Act, 1894* (hereafter referred to as “the 1894 Act”) was made on 27.06.1996. The Declaration under Section 6 of the 1894 Act was made on 03.03.1997. On 26.02.1999, the Award, being no.3/1998-99/SW in respect of the land admeasuring 130 bighas 15 biswas situated in the revenue estate of Village Malikpur Kohi @ Rangpuri, Delhi (which included the petitioner’s suit lands) was made by the Land Acquisition Collector (LAC), acquiring the said lands for public purpose, i.e. for construction of staff quarters of the Govt. of NCT of Delhi.

The petitioner submits that the failure on the part of the appropriate Government to comply with the letter and terms of Section 24(2) of the 2013 Act and pay him compensation vitiates the acquisition and thus seeks for a declaration accordingly.

The respondent LAC in its counter affidavit *inter alia* states as follows:-

“5. That it is submitted that the lands of village Rangpuri @ Malikpur Kohi notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 27.06.1996 which was followed by the Notification under Section 6 dated 03.03.1997.

The Award was also passed vide Award No.3/98-99 dated 19.02.1999. It is submitted that actual vacant physical possession of the subject land falling in khasra number 1426 (2-09) and 1427 (4-16) was duly taken on the spot on 31.12.2013 by preparing possession proceeding and handed over to the DDA on the spot. It is submitted that the petitioner has been claiming the relief of (1-01) out of two khasra numbers without disclosing the extent out of each khasra number. The compensation, however, could not be paid as not received from DDA.”

It is evident from the above that though the LAC states that possession was taken of the suit lands, there is no clear averment that compensation as is contemplated by law was offered and paid to the petitioners. The judgment in *Pune Municipal Corp. & Anr. v. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183 is clear that in order to comply with the terms of Section 24(2) of the 2013 Act, compensation must be tendered or offered to the land owner.

For the above reasons, the petition has to succeed. A declaration is issued that the suit lands are free from acquisition. This does not, however, preclude the respondents from initiating proceedings under the 2013 Act to acquire the suit lands.

The writ petition is accordingly allowed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 07, 2017/ajk