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

DECIDED ON : AUGUST 08, 2017

+ **W.P.(C) 10817/2015 & CM APPL.42495/2016**

PRATAP SINGH & ORS. Petitioners

Through : Mr.B.S.Chauhan, Advocate.

versus

GOVT. OF NCT OF DELHI & ANR. Respondent

Through : Mr.Arjun Pant, Advocate, for DDA.

Mr.Yeeshu Jain, Standing Counsel for
LAC with Ms.Jyoti Tyagi, Advocate.

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.1 etc./40/1 (2-17), 1 etc./52/1 (6-12), 1 etc./58/1 (3-09) measuring 12 bigha 18 biswas situated at village Ghonda Chauhan Khadar, Delhi-110053. 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. Petitioners No.1 to 7 claim themselves the recorded owners/bhumidars; petitioners No. 8 to 13 are the sons of late Kartar Singh, co-

bhumidar; and petitioners No.14 and 15 are the sons of late Mahavir Singh (deceased son of Kartar Singh) who was also the co-bhumidar.

3. The necessary facts are that 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 and 17(i) on 20.06.1990. The award bearing No.10/1992-93 dated 19.06.1992 was made by the Land Acquisition Collector.

4. 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.

5. The Govt. of NCT of Delhi through LAC, in its counter-affidavit, states in Para 4 and 5 :

“4. That the present writ petition is liable to be dismissed on ground of delay and laches as the petitioners are challenging the Notification issued u/s 40 on 23.6.1989 and Award No. 10/92-93 dated 19.6.1992 and possession proceeding dated 6.12.2012 by which the actual vacant physical possession of the subject land was taken from the recorded owners of the subject land and handed over to the requisition agency on the spot. As the physical possession of the subject land was taken on the spot, the necessary mutation was also carried out in the revenue records in the year 2012-13 which the petitioners are now disputing before the Hon'ble Court after 4 years.

5. That it is submitted that for purpose of planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land acquisition Act, 1894 on 23.6.1989 which was followed by Notification u/s 6 of the

said Act dated 20.6.1990 for planned development of Delhi for the acquisition of the lands falling in village Ghonda Chauhan Khadar. That an Award bearing No.10/92-93 dated 19.06.1992 and the land falling in khasra number 1 etc/40/1 (2-17), 1 etc/52/1 (6-12) and 1 etc.58/1 (3-09) was taken on the spot on 6.12.2012 and handed over to the DDA on the spot however compensation could not be disbursed as not received from DDA.”

6. It is evident that from the contents of the counter affidavit that compensation for acquisition of the suit land was never tendered or paid to the recorded owner(s).

7. 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.1 etc./40/1 (2-17), 1 etc./52/1 (6-12), 1 etc./58/1 (3-09) measuring 12 bigha 18 biswas situated at village Ghonda Chauhan Khadar, vide award No. 10/1992-93 dated 19.06.1992 is deemed to have lapsed by virtue of Section 24(2) of the Act.

8. 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