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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11067/2015, C.M. APPL.28636/2015**

ASHA SHUKLA CHOUBEY AND ANR Petitioners
Through : Ms. Deepika. V. Marwaha, Sh. Vinay
Kumar Shailendra, Ms. Worthing Kasar, Sh.
Vaibhav Asthana and Sh. Alok Pandey,
Advocates.

versus

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI AND ORS.** Respondents
Through : Sh. Yeeshu Jain, Standing Counsel with
Ms. Jyoti Tyagi, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE YOGESH KHANNA

% **ORDER**
09.05.2017

In this petition, the relief claimed is a declaration that the acquisition of land is deemed to have been elapsed under Section 24 (2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*.

With consent of learned counsel for the parties, the petition was heard finally.

The petitioners claim consequential orders in respect of ½ of share out of 3 bighas and 2 biswas in Khasra No. 1807 in revenue estate of Village Malikpuri Kohi @ Rangpuri, New Delhi. The Notification under Section 4 of the Land Acquisition Act, 1894 [hereafter “the old Act”] was issued on 27.06.1996 followed up by

declaration under Section 6 of the old Act on 03.03.1997. On 26.02.1999, Award No.3/1998-99/SW was published. The petitioners contend that the respondents did not take possession nor was compensation tendered in the manner known to law. In support of their submissions, the petitioners have filed documents such as copies of the Award and the revenue documents.

The counter affidavit of the Land Acquisition Collector (LAC) is hereby taken on the record. According to his submissions, the possession was handed over on 31.12.2013 and handed over to DDA at the spot by preparing possession proceedings.

He also relies upon the Award to say that all formalities were completed and that the land vested in the appropriate Government.

With the enactment of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*, the Parliamentary intention that wherever possession of acquired land was not secured within five years prior to the enactment or where compensation was not tendered to the land owners in accordance with law within that period, the acquisition is deemed to have elapsed manifest through Section 24 (3). That provision has been the subject matter of several judgments. The leading one being *Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors.* (2014) 3 SCC 183. The ruling has been followed in several Supreme Court judgments as well as decisions of this Court.

In the present case, although the respondents have provided

materials to support their contention that the land owners were dispossessed on the date mentioned in the counter affidavit, no such details are forthcoming with respect to tendering of compensation. *Pune Municipal Corporation (supra)* is categorical in that. Unless compensation is tendered to the land owners in the manner known to law, Section 24 (2) will operate to invalid or nullify the acquisition to the extent of the land in question.

Having regard to the significant omission on the part of the respondents to reveal whether compensation was tendered to the petitioners and if so on what dates, the Court is of the opinion that the claim in the present proceedings has to succeed.

In the light of the forgoing discussions, it is hereby declared that the acquisition is deemed to have elapsed under Section 24 (2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* with respect to ½ of the share out of 3 bighas and 2 biswas in Khasra No. 1807 in revenue estate of Village Malikpuri Kohi @ Rangpuri, New Delhi, for which compensation was not paid to the petitioners. Consequential direction is also issued to the respondents to take necessary steps - if they so choose - within one year to acquire the land failing which the same shall be returned to the recorded owners.

The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

MAY 09, 2017/AJK