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

+ **W.P.(C) 11148/2015 & CM APPL.28952/2015**

ANGURI DEVI & ANR Petitioners

Through : Ms.Richa Oberoi with Mr.Prateek
Kohli, Advocates.

Versus

UNION OF INDIA & ORS Respondents

Through : Mr.Rajesh Kumar, Advocate, for UOI.
Mr.Siddharth Panda, Advocate, for
LAC/L&B.

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 Nos.393 (0-10) and 395 (0-14) measuring 1 bigha and 4 biswas situated in the Village Neb Sarai, New 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. Petitioners aver that late Sh.Lahri Singh was the recorded owner of the suit land who expired on 29.06.2006 leaving behind five sons, namely Jai Prakash, Om Prakash (petitioner No.2), Brahm Prakash (petitioner No.3), Ved Prakash (Petitioner No.4) and Satya Prakash (petitioner No.5) and three daughters. Jai Prakash expired on

10.10.2015 leaving behind his wife, Smt.Anguri Devi (petitioner No.1) as successor.

3. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 5.11.1980; it included the suit land. A declaration was issued under Section 6 on 21.5.1985. The award bearing No.12/87-88 dated 20.05.1987 was made by the Land Acquisition Collector.

4. The petitioners aver that pursuant to the award possession of the suit land was taken over by the respondents but no 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 8 :

“That in the present case, the possession of the land in question was taken over and handed over to the beneficiary department on 05.09.2005, which is also admitted by the petitioners in para No.9 of the writ petition. The statement ‘A’ of the Award No.12/87-88 is not traceable. An NCR has also been lodged with the P.S. Neb Sarai bearing LR No.0063/2017 dated 07/02/2017. However, as per the Revenue Deposit Register, the total amount of ₹8,10,28,938/- of Award No.12/87-88 was deposited in R.D. but the same was later withdrawn vide R.V.No.436 dated 07.05.1993 for the Award No.1/93-94 Village Kakrola, Delhi as per Dy.Secy.(L&B) Letter No.F.19 (145/88-89/L&B/F.A.-20392 dated 07.07.1992)”

6. It is evident that possession of the suit lands was taken over, however, compensation for acquisition of the suit land was not tendered or paid to the recorded owner(s).

7. 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.

8. 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 lands in Khasra Nos.393 (0-10) and 395 (0-14) measuring 1 bigha and 4 biswas situated in the Village Neb Sarai, New Delhi vide award bearing No.12/87-88 dated 20.05.1987 is deemed to have lapsed by virtue of Section 24(2) of the Act.

9. 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