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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
DECIDED ON : 31st JULY , 2017

+ **W.P.(C) 11453/2015 & CM APPL. 30255/15**

SUDHIR SHUKLA Petitioner

Through : Ms.Deepika U.Marwaha, Advocate
with Mr.Vinay Kumar Shailendra, Ms.W.Kasar,
Mr.Vaibhav Rai Asthana & Mr.Alok Pandey,
Advocates.

versus

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI AND ORS.** Respondents

Through : Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for L&B/LAC.
Mr.Dhanesh Relan, Advocate with Ms.Gauri
Chaturvedi & Ms.Akshita Minocha, Advocates for
DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (OPEN COURT)

1. Learned counsel for the Govt. of NCT of Delhi through LAC seeks liberty to place on record the counter-affidavit. Liberty granted. Counter-affidavit is taken on record.

2. In the instant writ petition, the petitioner claims himself to be recorded owner of 1/4th share out of 3 bighas and 10 biswas of the land bearing Khasra No.1805 situated in the Revenue Estate of Village Malikpur Kohi @ Rangpuri, New Delhi (hereinafter referred to as 'suit land') by virtue of Sale Deed dated 23.12.1981. It was mutated in his name on 19.02.1982. The petitioner's claim is that acquisition of 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').

3. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 27.06.1996; it included the suit land. A declaration was issued under Section 6 on 03.03.1997. The award bearing No.3/1998-99/S.W dated 26.02.1999 was made by the Land Acquisition Collector.

4. The petitioner avers 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 (8) :

“8. That the acquisition proceedings qua the notified land i.e. khasra number 1805 (3-10) did not form part of any previous litigation nor there was any stay on proceedings, hence the actual vacant physical possession of said khasra number was duly taken on the spot on 31.12.2013 and handed over to DDA on the spot. So far as compensation is concerned the compensation amount has not been received from requisitioning authority. Thus, the compensation amount could not be paid to the interested persons.”

6. It is evident that though possession of the suit lands was taken over on 31.12.2013, no compensation for acquisition of the suit land was 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 land has not been paid, the petitioner is entitled to the declaration sought. Accordingly, it is held that acquisition of suit land in Khasra No.1805 to the extent of 1/4th (out of 3 bighas and 10 biswas) vide award No.3/1998-99/S.W dated 26.02.1999 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)**

JULY 31, 2017 / tr