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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11451/2015**

RANDHIR SINGH & ORS Petitioners
Through : Sh. N. Prabhakar and Sh. Dhruv
Sharma, Advocates.

versus

LT. GOVERNOR OF DELHI & ORS Respondents
Through : Sh. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
% **10.10.2017**

1. Learned counsel for the respondents seeks liberty to place on record the counter affidavit.
2. Liberty granted.
3. The counter affidavit is hereby taken on record.
4. The writ petition claims direction that the acquisition proceedings in respect of agricultural land measuring 2 bighas 4 biswas to the extent of $\frac{1}{2}$ share in Khasra No.423; 3 bighas 16 biswas to the extent of $\frac{1}{2}$ share in Khasra No. 213/2; 1 bigha 4 biswas to the extent of $\frac{1}{2}$ share in the Khasra No.398; 0-13 biswas in Khasra No.298/2; 0-4 biswas in Khasra No.642/3; 3 bighas and 5 biswas in Khasra No.406/1; 5 biswas in Khasra No. 422/4; 4 bighas in Khasra No. 642/1 to the extent of $\frac{1}{2}$ share; 0-08 biswas to the extent of $\frac{1}{4}$ th

share in Khasra No. 358; 19 biswas in Khasra No.360 to the extent of 1/4th share; 19 biswas to the extent of 1/4th share in Khasra No.361; 9 biswas to the extent of 1/4th share in Khasra No.403; 9 biswas to the extent of 1/4th share in Khasra No.404 measuring 10 bighas 14 biswas out of land measuring 18 bighas and 15 biswas in Village Neb Sarai, Tehsil Mehrauli, New Delhi [hereafter referred to as “the suit lands”] is free from acquisition in view 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”).

5. The relevant facts of the case are that the suit lands were notified under Section 4 of the Land Acquisition Act, 1894 [hereafter “the 1894 Act”] on 05.11.1980. This was followed by the declaration under Section 6 of the 1894 Act on 21.05.1985. The Award in this case (being no.12/87-88) was issued on 20.05.1987.

6. The counter affidavit of the respondents, in relevant particulars, states as under:

“4. That it is submitted that the lands of Village Neb Sarai were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 5.11.1980, declaration under Section 6 was issued on 21.5.1985. The Award was also passed vide Award No.12/87-88 dated 20.5.1987 and the actual vacant physical possession of the subject land falling in khasra numbers 398 (1-4), 403 (0-9) & 404 (0-9) in which petitioners have claimed ½ and ¼ share respectively, was duly taken on 5.9.2005 while in respect of other khasra numbers the possession could not be taken.

5. *That there is no entry in the Naksha Muntazamin as to whether any payment was made to the petitioners or not. The statement "A" of the Award No.12/87-88 is not traceable. An NCR has also been lodged with the PS Neb Sarai bearing LR No.: 0063/2017 dated 07/02/2017. However, as per the Revenue Deposit Register, the total amount of Rs.8,10,28,938/- of Award No.12/87-88 was deposited in RD but the same was later withdrawn vide RV 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."*

7. The Supreme Court in *Pune Municipal Corporation and. Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183, has held that if the acquiring body either does not pay compensation to the land owner or take possession within five years before coming into force of the 2013 Act, the acquisition is deemed to have lapsed. In the present case, the GNCTD states that the possession of the suit lands to the extent of ownership of petitioner in Khasra Nos. 398 (1-4), 403 (0-9) & 404 (0-9) in which petitioners have claimed $\frac{1}{2}$ and $\frac{1}{4}$ share respectively, was duly taken on 05.09.2005. However, it also admits at the same time that the compensation was neither paid nor tendered to the petitioner in accordance with the law and was neither deposited. In these circumstances, this petition has to succeed.

8. In view of above discussion, it is hereby declared that the acquisition in respect of agricultural land measuring 2 bighas 4 biswas to the extent of $\frac{1}{2}$ share in Khasra No.423; 3 bighas 16 biswas to the extent of $\frac{1}{2}$ share in Khasra No. 213/2; 1 bigha 4 biswas to the extent of $\frac{1}{2}$ share in the Khasra No.398; 0-13 biswas in Khasra No.298/2; 0-4 biswas in Khasra No.642/3; 3

bighas and 5 biswas in Khasra No.406/1; 5 biswas in Khasra No. 422/4; 4 bighas in Khasra No.642/1 to the extent of $\frac{1}{2}$ share; 0-08 biswas to the extent of $\frac{1}{4}$ th share in Khasra No. 358; 19 biswas in Khasra No.360 to the extent of $\frac{1}{4}$ th share; 19 biswas to the extent of $\frac{1}{4}$ th share in Khasra No.361; 9 biswas to the extent of $\frac{1}{4}$ th share in Khasra No.403; 9 biswas to the extent of $\frac{1}{4}$ th share in Khasra No.404 measuring 10 bighas 14 biswas out of land measuring 18 bighas and 15 biswas in Village Neb Sarai, Tehsil Mehrauli, New Delhi are free from acquisition and the acquisition is deemed to have lapsed by virtue of Section 24 (2) of the 2013 Act.

9. The writ petition is allowed in above terms.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

OCTOBER 10, 2017/ajk