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

DECIDED ON : AUGUST 10 , 2017

+ **W.P.(C) 666/2016 & CM 2759/2016**

SURYA SOLANKI Petitioner

Through : Mr.Rajesh Gupta, Advocate.

Versus

UNION OF INDIA & ORS. Respondents

Through : Mr.Prasanta Varma, Sr.CGSC with
Mr.Pravita Varma, Advocate, for UOI/R-1.
Mr.Ajay Verma, Standing Counsel with
Mr.Anuj Chaturvedi and Mr.Vaibhav Mehra,
Advocates for DDA.
Mr.R.K.Sharma, Advocate, for L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

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

1. The petitioner claims himself to be recorded owner of the land of Khasra No.39/16 (02-16) measuring 2 bighas and 16 biswa situated in the Revenue Estate of Village Barwala, Delhi (hereinafter referred to as 'suit land'). 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').

2. The necessary facts are that a notification under Section 4 of the Land Acquisition Act, 1894 (old Act) was issued on 21.03.2003; it included the suit land. A declaration was issued under Section 6 on 19.03.2004. The award bearing No.12/2005-06 was subsequently made by the Land Acquisition Collector.
3. The petitioner avers that pursuant to the award, physical possession of the suit land was never taken over by the respondents and 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.
4. The Govt. of NCT of Delhi through LAC, in its counter-affidavit states in Para 5 :

“That the present writ petition is further liable to be dismissed on the ground of delay and laches as the acquisition proceedings became complete in the year 2005-06 whereas the petitioners have preferred to challenge the same in the year 2015 on the false, fabricated and motivated grounds thereby misleading the Hon'ble Court as the actual vacant physical possession of the subject land falling in Khasra number 39/16 min (2-16) was duly taken on the spot on 6.10.2005 and handed over to the DDA on the spot by preparing possession proceedings on the spot and also the compensation was sent to the Court of Ld. ADJ u/s 30-31 of the Land Acquisition Act, 1894 on 27.9.2011. It is further submitted that the remaining land of the said khasra i.e 39/16 min (2-00) belonging to the petitioner was also taken in possession on the same day i.e 6.10.2005 and admitting the possession

of the Government through the proper possession proceedings dated 6.10.205, the petitioner duly applied with the answering respondent seeking release of compensation which was released to the cheque number 921491 dated 14.12.2006 for a sum of ₹22,81,609/-. Thus the petitioner cannot contend that the physical possession of formed subject matter of the present writ petition has not been taken by the Government.

5. It is evident that not only the physical possession of the suit lands was taken over but compensation for acquisition of the suit land was also paid to the petitioner.. The petitioner had applied with the respondent seeking release of compensation and it was released to him vide Cheque No.921491 dated 14.12.2006 for a sum of ₹22,81,609/-.. The averments have not been controverted or denied by the petitioner. The petitioner's contention that its physical possession was never taken is unmerited. The factum of acceptance of compensation belies his plea that possession of suit land was not taken over. It is pertinent to note that as per Revenue Record in Khatoni for the year 2003-04 Neera Jain was the recorded owner. The suit land was purchased by the petitioner from one Khushi Ram by a sale deed dated 1.9.2000. There is, however, no mutation in the revenue record in the petitioner's name. No credible document has been placed on record to show if the petitioner continued to be in physical possession of the suit till date.

6. Since the possession of the suit land has already been taken and compensation thereof has been paid to the recorded owner, the

declaration sought under Section 24(2) of the Act cannot be granted.
The petition is accordingly dismissed.

**S.P.GARG
(JUDGE)**

**S. RAVINDRA BHAT
(JUDGE)**

AUGUST 10, 2017 /sa

