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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Judgement: 12th March, 2018

+ **W.P.(C) 2244/2017**
ROHTASHPetitioner
Through: Mr. Samit Khosla, Advocate.

Versus

UNION OF INDIA & ANR.Respondents
Through: Mr. Sachin Nawani Adv. for LAC/L&B
Deptt.
Ms. Ruchi Jain Adv for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S. SISTANI, J. (Oral)

1. With the consent of the parties, the present Writ Petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to land comprised in Khasra No. 25/6/2(1-4), 7/2(1-4), 12(0-6), 13(4-13), 14(4-16), 15(4-16), 16(4-16), 17(4-16), 18(3-0), 24(3-15), 25(4-16), 26/11/2(3-2), 19/2(1-8), 20(4-16), 21/1(1-16), 28(0-4), 46/4(0-13), 5/1(1-9), 319(2-13), 4/12/1(1-13), 26(0-4) admeasuring 56 Bighas situated in the revenue estate of village Bharthal, Delhi, (hereinafter referred as the 'subject land') stand lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act'), as

the possession has not been taken by the respondents in respect to the subject land.

3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 13.12.2000 and a declaration under Section 6 was made on 07.12.2001. Thereafter, an Award bearing no. 26/2002-03 was passed on 23.10.2002 with respect to the subject land.
4. The counsel for the petitioner submits that the petitioner has received compensation including enhanced compensation with respect to the subject land but the possession of the subject land was not taken by the respondents. In these circumstances, the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act.
5. Mr. Yeeshu Jain, learned Counsel for LAC submits that the possession of the subject land has been taken over from the land owners and handed over to DDA on 14.08.2002 and also as per Statement A, the compensation with regard to the subject land is paid to the recorded owner. Para 8 of the Counter affidavit filed by the LAC, reads as under :-

"8. That in the present case, the possession of land was taken over and handed over to the beneficiary department, Delhi Development authority on 14.08.2002.

It is respectfully submitted that as per Statement A Shri Rohtas S/o Shri Chottey was paid compensation to the tune of Rs. 2,34,01,867 vide cheque No. 543030 dated 20.11.2002 after deducting TDS of Rs. 9,774/-.

10. It is pertinent to mention here that as per available land acquisition record kh. No. 319(2-13) has not

been acquired vide award No. 26/2002-2003 of village Bharthal.”

6. Further, the Counter affidavit has also been filed by the DDA wherein it has been categorically stated that the subject land has been handed over to DDA by LAC and the subject land was transferred to the Engineering Department, Dwarka for the Dwarka Project and relevant portion of which reads as under :-

"i) I say that the physical possession of the acquired land falliung in Khasra nos. mentioned in the Writ petition total admeasuring 53 bighas 7 biswas situated in Village Barthwal has been handed over to the Respondent no. 2 Delhi Development Authority by the LAC/Land & Building Department, Govt. of National Capital Territory of Delhi on 14.08.2002. The land has been further transferred to the Engineering Department, Dwarka for the Dwarka Project. The land falls in the Dwarka Project Sector-25 and between the road in Sector 22 and 23 Dwarka, where a road has already been constructed. Development work of Dwarka Sector-25 is under process.”

7. We have heard learned counsel for the parties.
8. Taking into consideration the counter affidavit filed by LAC as well as DDA, it is clear that the actual physical possession of the subject land was taken over by LAC except for Khasra No. 319(2-13) as the same has not been mentioned under Section 4, Section 6 and the Award bearing no. 26/2002-03, passed under the Land Acquisition Act, 1894 and handed over to the DDA on 14.08.2002. The possession of the subject land was further transferred by DDA to the Engineering Department and the same

has been utilized for the construction of road under the Dwarka Project as well as the Development work of Dwarka Sector-25 is also under process. Accordingly, the submission made by the counsel for the petitioner that actual physical possession of the subject land has not been taken is without force. As far as payment of compensation is concerned, learned counsel for LAC submitted that the compensation has already been paid to the petitioner and the same is not disputed by the counsel for the petitioner. Resultantly, the relief so claimed and pressed before this Court cannot be granted.

9. Hence we are of the view that the present petition lacks merit and is therefore dismissed.
10. The writ petition stands disposed of in the above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 12, 2018