

\$~28

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

% *Date of Judgment: 7th August, 2018*

+ W.P.(C) 4160/2015

DEEPAK CHHABRA AND ORS. Petitioners

Through Mr. A.K. De, Mr. Rajesh Dwivedi and
Ms. Ananya De and Mr. Anuj
Chauhan, Advocates

versus

DELHI DEVELOPMENT AUTHORITY AND ORS..... Respondents

Through Ms. Shiva Lakshmi, CGSC and Mr.
Siddharth Singh, Advocates for UOI.

Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.

Ms. Mrinalini Sen Gupta, Advocates
for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to land of the petitioners situated in the revenue estate of Village Karala, Utsav Vihar, Delhi 110081 (hereinafter referred as the 'subject land') as detailed herein after, are deemed to have 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 compensation in respect thereof has not been paid to the petitioners although physical possession of the subject land has been taken over. The petitioners claim the above relief in respect of the following land:

Khasra No.	Area	Village
73/12	450 sq. yards	Karala, Utsav Vihar, Delhi-110081
73/14	1bigha ½ biswa	
73/16	1400 sq. yards	
73/17	1 Bigha, 482 sq. yards	
73/18	3700 sq. yards	
73/19	1732 sq. yards	
73/22	300 sq. yards	
73/23	1162 sq. yards	
73/24	232 sq. yards	
83/1	250 sq. yards	
83/4	2176 sq. yards	
83/5/1	200 sq. yards	
83/5/2	400 sq. yards	

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 21.03.2003 and a declaration under Section 6 was made on 19.03.2004. Thereafter, an award

bearing no.22/2005-06/DC/(N-W) was passed on 02.01.2006 under Section 11 of the Act.

3. Mr. De, learned counsel appearing for the petitioners, has drawn the attention of the Court to para 7 of the counter affidavit filed by the LAC as per which only part possession of the subject land had been taken over by the Government and thereafter the same was handed over to the concerned authority. As far as the payment of compensation is concerned, it has been clearly averred in para 8 of the counter affidavit filed by the LAC that the same has not been paid to the petitioners. In these circumstances, learned counsel for the petitioners submits that the petitioners would be entitled to a declaration under Section 24(2) of the Act.

4. Mr Yeeshu Jain, learned counsel for the LAC, submits that only part possession of the subject land has been taken over and compensation in respect thereof has not been paid to the recorded owners. Paras 7 and 8 of the counter affidavit filed by the LAC reads as under:-

“7. That the Land Acquisition Collector passed an Award bearing No. 22/2005-06 dated 02.01.2006 and it is submitted that the physical possession of the land of the certain Khasra Nos. in village Karalawere taken in part by the Government and handedover the same to the respective authority.”

“8. That the Petitioners in the present writ Petition are not the recorded owners and have purchased the Land through

General Power of Attorney, Agreement to Sell, ranging from 100 sq. yards to 2176 sq. yards. It further submitted that it is difficult for the answering Respondent to ascertain that from which plot holder the same possession in part has been taken. Therefore, the details from the Revenue Records are herein below:-

ITE M No.	Recorded owners	Khasra nos.	Date of possession	Remaining land	Compensation
396	Vikas Mathur S/o. Dharambir	73//12 (4-16)	(4-06) was taken on 21.02.2007	(0-10)	Not Paid
398 399 393- 395	There are different recorded owners at the items mentioned item No. 398(1- 10), item No. 399 (1-00), item Nos. 393-395 (2-02)	73//14 (4-12)	(3-05) was taken on 21.02.2007	(1-07)	Not Paid
645	Surjan s/o. Badlu	73//16 (4-16)	Not Taken	(4-16)	Not Paid
645 653 654 656	There are different recorded owners at the items mentioned item No. 645(1- 16), item No. 653(1-00), item No. 654(1-00) item No. 656(1- 00)	73//17 (4-16)	(1-15) on 21.02.2007	(3-01)	Not Paid
393- 395	Dharambir, Mehtab Singh and Satpal Singh s/o. Mange Ram (having 1/3 rd share each)	73//18 (4-16)	(4-04) taken on 21.02.2007	(0-12)	Not Paid
759	Gram Sabha	73//19 (4-16)	(4-10) Taken on 21.02.2007	(0-06)	Not Paid
759	Gram Sabha	73//22	(4-12) taken	(0-04)	Not Paid

		(4-16)	on 21.02.2007		
645 646 649 650- 651	owners at the items mentioned item No. 645(0-16), item No. 646(2-00), item No. 649(1-00) item No. 650-651 (1-00)	73//23 (4-16)	(4-16) taken on 21.02.2007	-	Not paid.
645 646 652 655	owners at the items mentioned item No. 645(0-15), item No. 646(1-00), item No. 652(1-00) item No. 655 (2-01)	73//24 (4-16)	(1-00) taken on 21.02.2007	(3-16)	Not Paid
759	Gram Sabha	83//1 (4-09)	(2-00) taken on 21.02.2007	(2-09)	Not Paid
645	Surjan s/o. Badlu	83//4 (4-12)	(3-11) taken on 21.02.2007	(1-01)	Not Paid
645	Surjan s/o. Badlu	83//5/1 (2-00)	Not taken	(2-00)	Not Paid
36-41	Mange Ram, Suraj Bhan, Diwan Singh, Inder Singh, Satbir Singh s/o. Kirti Singh (having 1/5 th share each)	83//5/2 (2-12)	Not taken	(2-12)	Not Paid

5. Mr. Jain, learned counsel for the LAC has however opposed the petition on the ground that the petitioners are claiming relief based on General Power of Attorney, Will, receipt etc. which cannot confer title on the petitioner.

6. On the other hand, learned counsel for the petitioners submits that as far as objection with regard to the ownership and title is concerned, the case of the petitioners would be covered by the decision rendered by the Supreme

Court in *Govt. of NCT of Delhi vs. Manav Dharma Trust* and another, reported in **2017 (6) SCC 751**.

7. Ms. Mrinalini Sen Gupta, learned counsel for the DDA, submits that physical possession of the subject land had been handed over to DDA by L&B / LAC on 21-02-2007 and the same was further transferred to JE/RPD on 18-07-2007. The relevant portion of the counter affidavit filed by the DDA reads as under:-

“...it is also submitted that the physical possession of Khasra No. 73/12min (4-6), 14 min (3-5), 18 min (4-4), 19 min (4-10), 22 min, (4-12), 23 (4-16), 24 min (1-00), 83/1 min, (2-0), 4 min, (3-11), has been handed over to DDA by L&B / LAC on 21-02-2007 and some further transferred to JE/RPD on 18-07-2007. The payment to compensation has been sent to L&B /LAC vide Cheque NO. 094622 dated 06-06-2006 to Rs. 1,04,06,06,716/- against Award No. 22/2005-06/DC/NW.”

8. We have heard learned counsels for the parties.

9. Having regard to the observation made by the Apex Court in the case of *Manav Dharma Trust* (Supra), in our view the objection raised by Mr. Jain, learned Standing Counsel for LAC/L&B is misplaced. In the case of *Manav Dharma Trust* (supra), the Apex Court has held as under :

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings

have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

10. Having regard to the categorical stand taken in the counter affidavit filed by the LAC that part physical possession of the subject land has been taken over by the Government and compensation in respect thereof has not been paid to the recorded owners, and also taking into consideration the fact that the award having been announced five years prior to the commencement of the 2013 Act, in our view, the petitioners are entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly. As the petitioner has restricted his claim to payment of compensation in terms of the Act of 2013, compensation be paid to the petitioners within one year from today.

11. The writ petition stands disposed of in above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 07, 2018
SU