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

% *Date of Judgment: 26th September, 2018*

+ W.P.(C) 8253/2016

PHOOL WATI GUPTA & ORS

..... Petitioners

Through: Mr S.K. Rout and Mr Aman
Mehrotra, Advs

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Siddharth Panda, Adv for LAC
Mr Nikhil Rohatgi and Mr Shashank
Khurana, Advs

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 pertaining to 24 bighas and 18 biswas land of the petitioners comprised in khasra Nos. 6(1-0), 7(1-0), 54(1-5), 57(0-5), 58(0-4), 59(0-6), 60(0-5), 204 & 244(1-0), 236/2/2(4-03), 239(1-11), 240(2-17), 241(2-11), 242(3-18), 246(1-0), 247(1-0), 293/190(1-7) and 294/190(1-7) situated in the revenue estate of Village Shakarpur Khas, Delhi (hereinafter referred as the 'subject land') 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 neither the physical possession was taken nor compensation paid.

2. In this case the notification under Section 4 of the Land Acquisition Act was issued on 13.11.1959, Section 6 declaration was made on 18.03.1966. Thereafter an Award bearing No. 07/1969 was passed on 26.07.1969.

3. It is the case of the petitioners that the predecessor in interest of the petitioners had purchased the said land between the years 1962-1970. Upon the demise of Sh. Jawahar Lal Gupta on 28.11.2007, the present petitioners succeeded to the estate of Sh. Jawahar Lal Gupta being the wife, sons i.e., legal heirs of Sh. Jawahar Lal Gupta.

4. Mr Panda, learned counsel for the LAC has placed reliance on the counter affidavit so filed, more particularly, para 7 which we reproduce below and annexure R1/1 which provides the details of the payments made to some of the legal heirs and with respect to the areas of which part possession has been taken.

Para 7 of the Counter affidavit is reproduced hereinafter:-

“7. That it is submitted that the part possession of the subject land was taken over on various dates i.e., 20/08/70, 09.07.71, 25.11.71, 25.12.71 and 01.06.77 and handed over to the beneficiary department. Further, part compensation was paid to the recorded owner with respect to this khasra number. A copy of the schedule showing the details of lands of which possession has been taken over and payment has been made to the recorded owners are mentioned is annexed herewith and marked as Annexure R1/1.”

Annexure R1/1 is reproduced below:-

Item No.	Name of recorded owner	Khasra No. & Area Bigha Biswa	Compensation assessed in Rs.	Possession has been taken over	Possession has not been taken over	Remarks
2	Sh. Tote s/o Sukh Ram ½ share	54 (2-5), 59 (0-12), 60 (0-12), 241 (2-11), 242 (3-18), 293/190 (1-7) & 294/190 (1-7) with other khasra nos.	24482.88/-	Khasra Nos. 54 (1-5), 59 (0-6), 60(0-5) 241 (2-11), 242 (3-18), taken on 09/07/71 & 25/12/71	Khasra nos. 54 (1-0), 59 (0-6), 60 (0-7), not taken	As per RD Register No entry made for payment.
3	Sh. Chhote s/o Sukh Ram ½ share	Do	24482.89/-	Do	-	As per RD Register No entry made for payment.
26	Sh. Baderi s/o shera	6 (3-0) & 7 (3-0) with other khasra nos.	17514.32/-	Taken on 20/08/70	-	1. As per RD Register Amount Rs. 4273.21 paid to Sh. Ram Dass s/o Shera on 23-01-82. 2. As per RD Register Amount Rs. 4273.21 paid to sh. Bhola s/o Shera on 11/02/82. 3. As per RD Register Amount Rs. 8546.42 paid to sh. Bhola s/o Shera on 11/02/82. 4. As per RD Register Amount Rs. 708.18 paid to sh. Indarpal Jain s/o shri Niwas jain on
27	Sh. Bhola s/o shera	Do	17514.32/-	Do	-	
28	Sh. Ram Das s/o Shera	Do	17514.33/-	Do		

						08/01/79. 5. As per RD Register Amount Rs. 3186.81 paid to sh. Ram Dass s/o Shera on 09/11/79. 6. As per RD Register Amount Rs. 4651.43 paid to sh. Ram Dass s/o Shera on 15/05/80.
54	Sh. Ram Chander S/o Singh Ram	58 (0-5), 204 (1-4), 244 (0-15), 246 (2-2) & 247 (2-2) with other khasra nos.	91,256.45/- with other khasra nos.	58 (0-4), 204 (1-4), 244 (0-15) & 247 (2-2) taken 25/11/71 & 01/06/77	58 (0-14) not taken	As per RD Register:- 1. Rs. 4,352.09/- paid to Smt. Hemlata Jain on 19.03.76 2. Rs. 198.99 paid to Sh. Om Prakash Gupta on 25.01.84 3. Rs. 198.99 paid to Smt. Bhagwati Devi on 12.12.86 4. Rs. 198.99 paid to Smt. Kala Devi on 19.12.86 5. Rs. 198.99 paid to Sh. Chander Ram on 20.04.89 6. Rs. 7,561.62 Sent to ADJ Delhi 30-31 on 01.08.90 7. Rs. 4,352.09 paid to Smt. Satyawati on 03.04.91
55	Sh. Rewati s/o Diwan	236/2/2 (6-16) with other khasra nos.	14038.02/-	236/2/2 (4-3) taken	236/2/2 (2-13) not takenS	As per RD Register No entry made for payment.
56	Sh. Balwan singh s/o Diwan	Do	14038.02/-	Do	-	As per RD Register No entry made for payment.
57	Sh. Chandar Bhan s/o	Do	9358.68/-	Do	-	As per RD Register No entry made for

	Richhpal					payment.
58	Sh. Umrao s/o Richhpal	Do	9358.68/-	Do	-	As per RD Register No entry made for payment.
59	Sh. Ram Saran s/o Richhpal	Do	9358.68/-	Do	-	As per RD Register No entry made for payment.
60	Sh. Mangat s/o Ram Lal	Do	56152.07/-	Do	-	As per RD Register No entry made for payment.
112	Sh. Trilok Chand s/o Har sahai	239 (1-19) & 240 (2-17) with other khasra Nos.	21276.90/-	239 (1-19) taken	240 (2-17) not taken	As per RD Register Amount Rs. 8980.51 paid to Sh. Trilok Chand on 20/05/78.

5. We have heard the learned counsels for the parties.

6. Mr Rout, learned counsel for the petitioners agrees that the acquisition proceedings would lapse not with respect to the entire subject land i.e., 24 bighas 18 biswas but only 14 bighas, details of which are reproduced below:-

“Khasra Nos. 54(1-0), 57(0-5), 58(0-04), 59(0-6), 60(0-5), 240(2-17), 241(2-11), 242(3-18), 293/190(1-3), 294/190(1-7)”

7. He further submits that as far as the land falling in khasra No. 236/2/2 measuring 6 bighas 16 biswas is concerned, a separate writ petition is to be filed as the present award is not with respect to the aforesaid area. The details of the above khasra numbers have been jointly provided by the counsels from the extracted part of the counter affidavit which has been filed. According to the counter affidavit filed, from the aforesaid khasra

numbers it is clear that neither compensation has been paid for some khasra numbers nor physical possession has been taken for some khasra numbers.

8. Resultantly, the writ petition is allowed in part. The acquisition proceedings pertaining to the Khasra Nos. 54(1-0), 57(0-5), 58(0-04), 59(0-6), 60(0-5), 240(2-17), 241(2-11), 242(3-18), 293/190(1-3), 294/190(1-7) admeasuring 14 bighas are deemed to have lapsed. Leave as prayed is granted to the petitioners to take recourse to such remedy as available in accordance with law pertaining to khasra No. 236/2/2 measuring 6 bigha 16 biswas out of which possession of 4 bighas 3 biswas has already been taken. The petitioners are only praying for grant of compensation. Compensation would be released within a period of one year.

9. The writ petition is disposed of in the above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 26, 2018

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