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

Date of Judgement: 14th March, 2018

+ **W.P.(C) 4494/2015**

SOMENTI DEVI VERMA AND ORS. ...Petitioners

Through: Mr. K.S. Kashyap, Advocate.

Versus

GOVT OF NCT OF DELHI AND ORSRespondents

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

Mr. J.H. Jafri, advocate for respondent
no. 2/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 petitioners seeking a declaration that the acquisition proceedings with respect to land comprised in Khasra No. 392/264, 393/264 and 402/268, situated in the revenue estate of village Chilla Saroda Bangar, Delhi (hereinafter referred as the 'subject land') stands 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 physical possession of the subject land has been taken nor compensation has been paid to the petitioners.

3. In the present case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 17.11.1980 and a declaration under Section 6 was made on 22.09.1981. Thereafter, an award bearing no.39/82-83 was passed by the Land Acquisition Collector on 30.09.1982.
4. Mr. K.S. Kashyap, learned counsel for the petitioners submits that as the physical possession of the subject land has not been taken and compensation in respect thereof has not been paid, the petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act. Learned counsel further relies on 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**, in response to the stand taken by LAC in the counter affidavit that the petitioners has no *locus standi* to file the present petition as he is not the recorded owner. Reliance is placed on para 28 of this judgment which reads 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.”

5. Mr. Yeeshu Jain, counsel for the LAC submits that actual vacant physical possession of the land comprised in Khasra No. 393/264(77-09) was taken on 01.10.1982 and handed over to the requisitioning department, and the compensation amount in respect of Khasra No. 393/264min(76-9) and 392/264(9-2) has been paid to the recorded owner(s). However, with regard to Khasra No. 402/268(1-10), no entry of payment has been made in the RD Register. Mr. Jain has also opposed this petition on the ground that the petitioners are claiming benefit under Section 24(2) of the 2013 Act based on General Power of Attorney and Agreement to Sell/WILL which cannot confer title on the petitioners as the same are not admissible mode of transfer. Relevant portion of the counter affidavit filed by LAC reads as under:

"That it is submitted that for purpose of planned development of the Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 17.11.1980 which was followed by Notification u/s 6 of the said Act dated 22.09.1981 for the acquisition of the lands falling in the khasra numbers under reference in village Chilla Saroda Bangar. That an award No. 39/82-83 dated 30.09.1982 was also passed and the actual vacant physical possession of the subject land falling in khasra number 393/264 min(77-09) was

taken vide possession proceedings dated 1.10.1982 and handed over to the requisition agency on the spot. It is submitted that there came numerous claimants seeking compensation which was paid to them and some left unpaid. A complete chart is annexed showing therein the payment of compensation to numerous individuals is as follows:-

Item No.	Name of recorded owner	Khasra No. & Area Bigha Biswa	Compensation assessed in Rs.	Possession has been taken/ not taken over	Remarks
218	Vinita Dogra w/o P. K. Dogra 12/1529 share	393/26 4min (76--9)	5,520	Khasra No. 393264(76-9) has been taken over on 01/10/1982	As per RD Register item no. 218 to 245/1 Rs.1840.00 paid to Krishan Kumar on 19/10/95.
219	Indiragur das w/o P.P. Gurdas 12/1529 share	Do	5,520	Do	Amount lying in RD
220	Mushtaq Ahmed w/o Mohd. Idris 20/1529 share	Do	9,200	Do	As per RD Register Rs. 9,200 paid to Mushtaq Ahmad on 21/11/83

221	Ishtaq Ahmed s/o Idris 20/1529 share	Do	9,200	Do	As per RD Register Rs.9200 paid to Isfaq Ahmad on 14/12/82
222	Fehmida w/o ZiaUl- Ansari 26/1529 share	Do	11,960	Do	As per RD Register Rs.11960 paid on 6/1/83
223	Anwar Qayam s/o Abdul Qayam 15/1529 share	Do	6,900	Do	As per RD Register Rs.6900 paid on 6/1/83
224	Akbar Qayam s/o Abdul Qayam 15/1529 share	Do	6,900	Do	As per RD Register Rs.6900 paid on 6/1/83
225	Arshad Qayam s/o Abdul Qayam 15/1529 share	Do	6,900	Do	As per RD Register Rs.6900 paid on 6/1/83
226	Ishhaq Hussain s/o Ashiq Hussain 20/1529 share	Do	9,200	Do	As per RD Register Rs.9200 paid on 9/12/82
227	Aneesur Rehma s/o Rehman Beg 44/1529	Do	20,240	Do	As per RD Register Rs.20240 paid on 9/12/82

228	Khursheed Anwar s/o Haji Ali 20/1529 share	Do	9,200	Do	As per RD Register Rs.9200 paid on 13/12/82
229	Sri Chand s/o Faquira	Do	6,02,600	Do	Item no. 229 to 245 as per RD Register.
230	Mahendra Singh s/o Faquira	Do		Do	1. Rs.9200 paid to Monorma Bajaj on 24/3/83
231	Khimman s/o Jaimal	Do		Do	2. Rs. 1380 paid to Urmila Rani on 13/11/86
232	Ratia s/o Jaimal	Do		Do	3. Rs.12880 paid to Nirmal Singh on 1/6/86
233	Rumal s/o Dan Sahai	Do		Do	4. Rs. 1150 paid to Krishana Dhonda
234	Ramphool s/o Chottu	Do		Do	5. Rs. 920 paid to Jagarnath on 13/4/89
235	Braham Singh s/o Chottu	Do		Do	6. Rs. 920 paid to jagdish chand on 24/4/89
236	Charan Singh s/o Chottu	Do		Do	7. Rs. 920 paid to Dinesh on 25/4/89
237	Lachhu s/o Chander	Do		Do	8. Rs.23400 paid to Ramphal on 03/05/91
238	Hote Ram s/o Chander	Do		Do	9. Rs.165600 paid to Lachu on 10/5/91
239	Azad Singh s/o Chander	Do		Do	10. Rs.165600 paid to Sarda Ram on 10/5/91
240	s/o Chander	Do		Do	11. Rs. 1840 paid to Lachu on 13/12/92
					12. Rs. 1840

					<i>paid to Het Ram on 31/12/92</i> 13. Rs. 1840 <i>paid to Azad Singh on 13/12/92</i> 14. Rs. 1840 <i>paid to Rohtas on 13/12/93</i> 15. Rs.46460 <i>paid to Sarda Ram on 12/2/93</i> 16. Rs.58880 <i>paid to Lachhu on 12/2/93</i> 17. Rs. 18400 <i>paid to Niranjn Das on 16/10/96</i> 18. Rs.16100 <i>paid to Jai Chand on 29/10/92 against item no. 242/1 & 282/1.</i> 19. Rs.8280 <i>each paid to Sarda & Pratap Singh on 31/12/92 against item no. 241/1,2&281/1,2</i>
241	<i>Haria s/o Ramsaran</i>	<i>Do</i>		<i>Do</i>	
242	<i>Jai Chand s/o Ramsaran</i>	<i>Do</i>		<i>Do</i>	
243	<i>Ramphal s/o Lala</i>	<i>Do</i>		<i>Do</i>	
244	<i>Lachhu s/o Chander</i>	<i>Do</i>		<i>Do</i>	

245	Sarda s/o Hari Chand	Do		Do	
245 /1	Gaon Sabha Total Share of Item No. 229 to 245/1(131 0/1529)as per NM.	Do		Do	
42	Sh. Kartar Singh s/o Jai Chand	392/2 64 (9-2)	73255.00/-	Do	As per AD Register Rs.65780/- paid to Sh. Kartar Singh s/o Chand on 29/12/92.
43	Sh. K C Gupta s/o R D Gupta	Do	5232.50/-		3. As per RD Register Item No. 42 to 44 Rs.7350/- paid to Sh. Pritpal Singh
44	Sh. S K Sharma s/o S N Sharma	Do	5232.50/-	Do	4. As per RD Register Rs.5232.50/- paid to Sh. S K Sharma on 29/03/93
208	Sh. Vijay Pal s/o Shish Ram 1/9 share	402/26 1-10)	1533.33/-	Khasra No. 402/268(1-10) not taken on 01/10/82	As per RD Register no entry made for payment
209	Sh. Dharpal s/o Shish Ram 1/9 share	Do	1533.33/-	Do	As per RD Register no entry made for payment

210	Sh. Raj Pal s/o Shish Ram 1/9 share	Do	1533.33/-	Do	As per RD Register no entry made for payment
211	Sh. Asharfi s/o Sarup Singh 1/12 share	Do	1150.00/-	Do	As per RD Register no entry made for payment
212	Sh. Lakshman s/o Sarup Singh 1/12 share	Do	1150.00/-	Do	As per RD Register no entry made for payment
213	Sh. Lekh Ram s/o Ram Sarup 1/10 share	Do	1380.00/-	Do	As per RD Register no entry made for payment
214	Sh. Lekhi Ram s/o Ram Sarup 1/10 share	Do	1380.00/-	Do	As per RD Register no entry made for payment
215	Sh. Ram Kala s/o Ram Sarup 1/10 share	Do	1380.00/-	Do	As per RD Register no entry made for payment
216	Sh. Hansa Ram s/o Ram Sarup 1/10 share	Do	1380.00/-	Do	As per RD Register no entry made for payment
217	Sh. Mahender s/o Ram Sarup Do 1/10 share	Do	1380.00/-	Do	As per RD Register no entry made for payment

6. Counter affidavit has also been filed by DDA, relevant portion of which reads as under:

"It is submitted that Khasra No. 392/264 measuring area is 13 bigha & 13 biswas and Khasra No. 393/264 measuring area is 85 bigha & 9 biswas of Chilla Saroda Bangar. It is submitted that as per land record of DDA Khasra no. 392/264 min measuring area 9 bigha 2 biswa out of the total area 13 bigha & 13 biswas and from khasra no. 393/264 min measuring area 76 bigha & 9 biswas out of total area 85 bigha & 9 biswas has been acquired vide Award no. 39/82-83. The Physical possession of the same has been handed over to DDA by Land Acquisition Collector through Land & Building Department of NCT of Delhi 01.10.1982 and since then the land is at the disposal of DDA through notification under Section 22(1) no. F 8(68) 76/L& B dated 14.10.1982."

7. We have heard learned counsel for the parties.
8. The learned counsel for the petitioners has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioners. Counsel has also submitted that the objections of the LAC regarding *locus standi* of the petitioners is misplaced in view of the observations made by the Supreme Court in ***Manav Dharma Trust (supra)*** where the rights of the subsequent purchaser have been recognised.

9. As per the counter affidavit filed by LAC as well as by the DDA, it clear that out of Khasra No. 392/264 measuring 13 bighas 13 biswas, the actual physical possession of only 9 Bighas 2 Biswas has been taken and compensation in respect thereof has been paid. It is further stated that out of Khasra No. 393/264 measuring 85 bighas 09 biswas, the actual physical possession of only 76 Bighas 9 Biswas has been taken and compensation in respect thereof has been paid. It is also evident from the record that with respect to the land comprised in Khasra No.402/268, neither the physical possession has been taken nor the compensation in respect thereof has been paid. As far as the objection with regard to the maintainability is concerned, we find the same to be misplaced in view of the observations made by the Supreme Court in the case of ***Manav Dharma Trust (supra)***. Accordingly, the submissions made by the counsel for the LAC that the petitioner has no *locus standi* to file the present petition as he is the subsequent purchaser, holds no ground.
10. Having regard to the submissions made and the categorical assertion made in the counter affidavit filed by LAC that with respect to Khasra No.402/268 neither physical possession has been taken nor compensation in respect thereof has been paid and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioner is entitled to a declaration under Section 24(2) of the 2013 Act that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have lapsed. It is ordered accordingly.

11. It is also made clear that we have not expressed any opinion on the title of the above land. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
12. The writ petition stands disposed of in the above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 14, 2018
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