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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 8125/2014, C.M. APPL.18944/2014, 17348/2015 &
43067/2016

DAYACHAND & ORS. Petitioners
Through : Sh. Saurabh Agarwal and Sh.
Abhimanyu Singh, Advocates.

versus

UNION OF INDIA & ORS. Respondents
Through : Sh. Ajay Verma, Sr. Standing Counsel
with Ms. Diviani Khanna, Advocate.
Sh. Ajay Digpaul, CGSC, for UOI.
Sh. Yeeshu Jain and Ms. Jyoti Tyagi, Advocates,
for LAC/L&B.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER
% **24.01.2018**

1. The writ petitioners seek a declaration that the acquisition of their lands (Khasra Nos.65//7, 65//8, 65//13, 65//14 and 68//7) [hereafter “the suit lands”] in Village Barwala are free from acquisition in view of Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* [hereafter “the 2013 Act”]. The petitioners claim to be owners entitled to possession of suit lands, which are of small area.

2. The acquisition proceedings were initiated in respect of these suit lands on 21.03.2003 by a Notification under Section 4 of the erstwhile Land Acquisition Act, 1894 [hereafter “the 1894 Act”]; the declaration under Section 6 of the 1894 Act issued on 19.03.2004.

3. Concededly, the Award was published on 05.08.2005 after considering the objections and contentions of the persons interested. Previously, a Writ Petition, being W.P.(C) 2501/2013 was filed by the farmers whose lands were acquired in the same village; that writ petition was dismissed on ground of *laches* on 17.04.2013. Those petitioners approached the Supreme Court which initially made a *status quo* order with respect to possession. It was in these circumstances that the present writ petitioners approached this Court, contending that by virtue of Section 24(2) of the 2013 Act, the acquisition is deemed to have lapsed since the essential conditions spelt out in it were fulfilled.

4. The petitioners admit that they were paid compensation in accordance with the determination of the Land Acquisition Collector (LAC) in the Award. They, however, expressed willingness to refund that amount. The main ground on which the petition is premised is that the possession of the suit lands was not taken and that consequently, they were entitled to a declaration under Section 24(2) of the 2013 Act.

5. The respondents have filed counter affidavit. In the LAC’s affidavit, it is stated that possession of suit land was taken and

handed-over to the beneficiary department – the Delhi Development Authority (DDA) on 31.08.2005. DDA too has made similar plea. During the pendency of these proceedings, DDA has filed an application, i.e. C.M. No.17348/2015. In that, a copy of the possession proceedings dated 06.10.2005 has been annexed. These possession proceedings indicate that physical possession was taken between 28.09.2005 and 06.10.2005. The possession proceedings which are produced as Annexure R-5 clearly state that the existing constructions on the suit lands and other acquired lands like them, were demolished before the physical possession was taken.

6. The material on the record, especially the possession proceedings, produced along with C.M. No.17348/2015, clearly indicate that a large tract of land was found to be vacant. These included the suit lands whose specific Khasra Nos. are mentioned in the writ petition. In these circumstances, the question of petitioners continuing in the possession does not arise. Clearly, they received compensation. The possession of these suit lands was taken as far back as in October 2005. The writ petition is unmerited and is accordingly dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 24, 2018/ajk