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

Date of Judgement: 1st March, 2018

+ **W.P.(C) 9436/2016**

VIVEK CHANDRA PANDE

.....Petitioner

Through: Mr. N.S. Vasisht and Mr. M.P. Bhargava,
Advocates.

Versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Siddharth Panda, Adv. for
LAC/L&B Deptt.
Mr. Pawan Mathur, Standing Counsel for
DDA.
Ms. Meera Bhatia, Adv. For Union of
India.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J. (Oral)

1. Pleadings are complete. 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 bearing Khasra No. 764/606, situated in the revenue estate of village Maidan Garhi, Tehsil Hauz Khas, New 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 neither actual

physical possession of the subject land has been taken nor the compensation has been paid to the petitioner.

3. The necessary facts to be noticed for disposal of this writ petition are that a Section 4 notification of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 25.11.1980. Section 6 declaration was made on 18.06.1985. Thereafter an Award bearing no. 23/87-88 was passed by the Land Acquisition Collector on 17.06.1987.
4. Mr. N.S. Vasisht, learned counsel for the petitioner submits that since the physical possession of the land has not been taken, and the compensation in respect thereof has not been paid, the petitioner 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 petitioner 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. On the other hand, Mr. Panda learned counsel for the LAC submits that physical possession of the subject land has been taken and compensation has been tendered to the recorded owner. He further submits that it is not open for the petitioner to dispute the possession for the reason that the petitioner is the subsequent purchaser and the possession was taken from the recorded owner to whom compensation was also paid. Relevant Para(s) of the counter affidavit filed by LAC reads as under:

"8. That in the present case, the possession of the land in question was taken over and handed over to the beneficiary department on 16.07.1987 and as per Statement "A" compensation was paid to the recorded owners as under:-

NAME	AMOUNT	REMARKS
Bhim Singh	455225.00	Paid vide Cheque No. 81084 dt. 10.09.97
Hukam Chand	151741.68	Paid vide Cheque No. 81019 dt. 31.08.87
Man Singh	151741.69	Paid vide Cheque No. 81020 dt. 31.08.87
Mehar Singh	151741.69	Paid vide Cheque dated 03.08.87

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

*"I say that the possession of the acquired land has been handed over by the LAC to the DDA on 16.07.1987 and the copy of the Possession Report is annexed herewith as **ANNEXURE R3-1.**"*

7. We have heard learned counsel for the parties.
8. The learned counsel for the petitioner has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioner. Counsel has also submitted that the objections of the LAC regarding *locus standi* of the petitioner 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. Reading of the counter affidavit filed by LAC makes it clear that compensation was paid to the recorded owners on various dates. The names of the recorded owners, cheque numbers and their respective dates have been provided. Accordingly, the submissions made by the counsel for the petitioner that the compensation has not been tendered to the petitioner is without any force. As far as possession of the subject land is concerned, the counter affidavit filed by LAC and DDA makes it clear that the possession of the subject land has been taken on 16.07.1987. In our view it is not open for the petitioner who claims to be a subsequent purchaser, to raise the plea that the possession proceedings are not in accordance with law for the reason that the persons who received the compensation, at no point complained that physical possession has not been taken. This objection of the petitioner regarding possession is highly belated and misplaced.
10. We are of the considered view that the judgement of the Supreme Court in the case of ***Manav Dharma Trust (supra)*** does not apply to the facts of the present case for the reason that in this case the

physical possession has been taken on 16.07.1987 and compensation has been paid to the recorded owner in the year 1987 on various dates as detailed in para 5 above. In case the physical possession had been taken and compensation having not been paid at all, in those circumstances, the decision rendered in the case of *Manav Dharma Trust (supra)* would come to the aid and rescue of the petitioner, which is not the facts of the present case.

11. Having regard to the submissions made and the categorical assertion made in the counter affidavit filed by LAC as well by DDA, that the possession of the subject land has been taken over on 16.07.1987 and the compensation has been paid to the recorded owners, we are of the considered view that the relief so claimed and pressed before this Court by the petitioner cannot be granted.
12. Hence we are of the view that the present petition lacks merit and is liable to be dismissed.
13. The writ petition stands disposed of in the above terms.

SANGITA DHINGRA SEHGAL, J.

G.S.SISTANI, J.

MARCH 1, 2018//gr