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

% *Date of Judgment: 05th March, 2018*

+ W.P.(C) 111/2017

RAJESH WADHWA

..... Petitioner

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

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Bhagvan Swarup Shukla, CGSC
with Mr.Kamaldeep, Adv. for UOI.
Mr.Yeeshu Jain and Ms.Jyoti Tyagi,
Advts. for LAC/L&B.
Mr.Arjun Pant, Adv. 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 the Constitution of India filed by the petitioner. The petitioner seeks a declaration that the acquisition proceedings initiated with respect to 1 bigha (1008 sq. yards) of agricultural land comprised in Khasra No.941/623 situated in revenue estate of Village Maidan Garhi, NCT of Delhi (hereinafter referred to as 'the subject land') is deemed to have lapsed as neither physical possession has been taken nor compensation has been tendered to the

petitioner. Reliance is placed on 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').

2. Counter affidavits have been filed by the LAC as also by the Delhi Development Authority (DDA).
3. As per the counter affidavits which have been filed, the petitioner has no locus standi to file the present writ petition or claim benefit of Section 24 (2) of the 2013 Act as the compensation stands already paid to the recorded owners, namely, Bhim Singh, Hukum Chand, Bhaan Singh and Mehar Singh in the year 1987. It is also the case of the LAC that the physical possession of the land has been taken. The DDA has also stated in the counter affidavit that the possession was taken on 16.07.1987.
4. We have heard the learned counsels for the parties and considered their rival submissions.
5. Paragraph 3 (k) of the counter affidavit filed by the DDA reads as under:

“3. (k)After Notifications under Sections 4 & 6, the land was acquired vide Award No.23/1987-88. The physical possession of the land was handed over to the DDA by the LAC/L&B Department, Govt. of NCT of Delhi on 16.7.1987. Copy of the possession proceedings is annexed as ANNEXURE-1. It is further submitted that amount of compensation of Rupee One Hundred Crores only was remitted by the Central Government to L&B Department, Govt. of NCT of Delhi on account of compensation of 13 South Delhi Villages including Village Maidan Garhi. The amount of the compensation of the acquired land has been withdrawn by the original owners of the land vide Cheque No.81019 dated 31.08.87 as per Statement 'A' provided by

the Land Acquisition Collector, which is annexed as ANNEXURE-2.”

6. Paragraphs 4 and 5 of the counter affidavit filed by the LAC would also be relevant for the purposes of deciding this writ petition and the same are reproduced below:

“4. That the present writ petition is liable to be dismissed as the petitioners are not the recorded owner of the subject land falling in khasra number 941/623 but are claiming the relief of 1 Bigha on basis of Agreement to Sell dated 05.12.2016. The petitioners do not have any sale deed got executed but have filed the present writ petition in their own individual names, thus the present writ petition is liable to be dismissed.

5. That the present writ petition is liable to be dismissed as the petitioners tried to get the subject land purchased through Agreement to Sell executed on 05.12.2016 whereas the Award No.23/87-88 came to be passed much earlier and the recorded owners even received the compensation in the year 1987 itself as the actual vacant physical possession of the subject land was duly taken on the spot on 16.07.1987 on the spot and was handed over to the DDA on the spot by preparing possession proceeding on the spot. The compensation for the undivided share for the said land for a sum of Rs.4,55,225/- have been paid to recorded owners namely Bhim Singh vide cheque number 81084 dated 10.9.1987, Rs.151741.68 each in the name of Hukum Chand, Bhaan Singh and Mehar Singh respectively vide cheque numbers 81010, 81020 and 81029 dated 31.8.1987 respectively.”

7. The submission of learned counsel for the petitioner is that the petitioner being the subsequent purchaser would fall in the larger definition of an ‘interested person’. Counsel for the petitioner places reliance on *Govt. of NCT of Delhi Vs. Manav Dharma Trust and*

another, reported in **2017 (6) SCC 751**. He also contends that the physical possession of the land has not been taken and thus, he would be entitled to the relief so claimed. The submission of counsels for the LAC and DDA is that the petitioner cannot be termed as an ‘interested person’ and the case of *Manav Dharma Trust (supra)* would not apply to the facts of the present petition for the reason that the petitioner is not the recorded owner of the subject land. The counsel for the DDA has strongly contended that the physical possession has been taken over as far back as in the year 1987.

8. The question which arises for our consideration is as to whether the petitioner can be termed as an ‘interested person’ and secondly, whether the case of *Manav Dharma Trust (supra)* would apply to the facts of the present case.
9. Section 24(2) of 2013 Act reads as under :

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—

(1) xxxxx xxxxx xxxxx

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under

section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

10. Reading of Section 24(2) of 2013 Act would show that the acquisition proceedings would deem to have lapsed in case the physical possession of the land has not been taken or the compensation has not been tendered.
11. In the present case, as per the documents placed on record i.e. statement ‘A’ and the details provided by the LAC would show that the recorded owners have been paid the compensation as far back as in the year 1987. As far as possession is concerned, the consistent stand taken by both, the LAC and the DDA, is that the physical possession was taken as far back as in the year 1987. In our view, the case of *Manav Dharma Trust* (supra) would not come to the aid or rescue of the petitioner for the reason that neither the recorded owner had, at any point of time, contested that the compensation had not been tendered nor that the physical possession was not taken. The present case stands on a completely different footings than the facts in the case of *Manav Dharma Trust* (supra). The petitioner has purchased the subject land only in the year 2016 which seems only to derive benefit of Section 24 (2) of 2013 Act.
12. Since the physical possession has been taken by the DDA and compensation has been tendered, we find no merit in this writ petition.
13. Accordingly, the writ petition is dismissed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 05, 2018/rb