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

Date of Judgment :29th January, 2018

+ W.P.(C) 9805/2017

RAM CHANDER SINGH & ORS Petitioners

Through Ms.Esha Mazumdar & Mr.Nishant
Verma, Advocates.

versus

LT. GOVERNOR OF DELHI & ORS. Respondents

Through Mr.Santosh Kumar Tripathi, ASC
with Mr.C.M. Sundaram, Advocate
for R-1.
Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
L&B/LAC.
Mr.Ajay Verma, Mr.Kush Sharma
& Mr.Ekant Luthra, Advocates for
DDA.
Ms.Mini Pushkarna, Standing
Counsel with Ms.Vasundhara
Nayyar, Advocate for NDMC.
Ms.Tulika Bhatnagar, Adv. for R-6.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The petitioners claim that lands measuring 3,000 sq. yards forming part of Khasra No. 165, revenue estate of village Chaukri, Mubarikabad, Delhi with abadi known as Jai Mata Market, Trinagar, Delhi-110035, should be declared free from acquisition in terms of Section 24(2) of the *Right to Fair Compensation and Transparency in Land Acquisition*

Rehabilitation and Resettlement Act, 2013 (hereafter referred to as ‘the Act of 2013’).

2. The facts necessary to be noticed to decide the case are that the suit lands were notified for acquisition under Section 4 of the then prevalent Land Acquisition Act (of 1894) on 13.11.1959. Later, a declaration under Section 6 the said old Act was issued on 26.12.1962. An Award No.1686 was made on 20.02.1964. It appears that at that time, the lands were owned by Bode Singh S/o Munna Singh and Kalu Ram, to the extent of 165 min (6-10) and 165 min (6-09) respectively. The petitioners claim to be successors in interest and descendants of one Panna Lal, and rest their right, title and entitlement on certain documents executed in the year 1991 in the form of Agreement to Sale and General Power of Attorney. It is also brought to the notice of this Court that the Award specifically recognizes that Panna Lal was a transferee of Bode Singh and claimed title through a registered Sale Deed. The petitioners in these proceedings are legal representatives/heirs of Panna Lal.
3. It is contended that the compensation was not paid to the land owners.
4. LAC in paras 7 to 8 of its counter affidavit states as follows:-

“7.That the Land Acquisition Collector passed an Award bearing No.1686 dated 20.02.1964 in respect of Khasra Nos.165 admeasuring 12 bighas 12 biswas in village Mauja Chaukri Mubarikabad, Delhi which is the subject matter of the present Writ Petition. It is submitted that as the Land Record available before the answering respondent No.3 the land pertaining to khasra No.165(12-19) was bifurcated in two parts i.e. 165 min (6-10) and 165 min (6-09), both of these were acquired by the said award.

8. That as per the naksha muntzmin / Revenue Records available before the answering Respondents

the ownership right were lies with Shri Bodey s/o Munna Singh for khasra No.165 min (6-10) as item No.7 and Kalu Ram S/o Hetu for Khasra No.165 min (6-09) as item No.8, when section 4 notification was notified.

8. That the possession of the Khasra Nos.165 min (6-10) and 165 min (6-09) admeasuring 12 bighas 19 biswas had been taken by the Government on 01.05.1964 and handed over to the respective authority i.e. DDA and the compensation of the same had been deposited initially in the court of ADJ vide its cheque no.389384 dated 03.09.1965 and when no one claimed for the same, the amount was received back and deposited in Delhi treasury vide cheque no.394710 dated 10.03.1967.”

5. The mandate of Section 24 (2) of the Act of 2013 is that if the appropriate Government or the concerned land acquiring body fails to pay compensation to the land owner within five years period immediately preceding to coming into force of the Act of 2013, i.e. 01.01.2014, the acquisitions are deemed to have lapsed. The controversy in this case, as urged by the LAC, is the petitioners’ stand to claim the relief. On this aspect, this Court is satisfied that the petitioners have sufficient standing. The documents placed on record clearly demonstrate that Bode Singh was one of the original owners. His claim of compensation was assessed and awarded. Furthermore, the award also recognizes the right of Panna Lal. The petitioners are none other than the legal representatives/ heirs of Panna Lal, who acquired Bode Singh’s share of the lands through a registered Sale Deed. Given these facts, this Court is satisfied that the petitioners have a standing to maintain the present proceedings.

6. For the purpose of these proceedings, however one thing is clear that the appropriate government has admitted that the assessed compensation was never paid to the original owner - Bode Singh or his acknowledged successor in interest - Panna Lal, whose name finds express mention in the award. Instead, it appears to have been deposited sometime in the year 1965 with the Treasurer and the reasons which persuaded the Government to make such deposit are entirely unclear. But for the purpose of the present proceedings, it is sufficient to note that such deposit does not amount to “payment” - in terms of the Judgment of Supreme Court in *Pune Municipal Corporation and. Anr. v. Harakchand Misirimal Solanki and Ors.*, (2014) 3 SCC 183.
7. In view of the above discussion, the petitioners are entitled to the relief claimed. At the same time, this Court is of the opinion that respondents should be given sufficient time to make a choice whether to acquire the suit land, in terms of later part of Section 24(2) of the Act of 2013 or otherwise. Furthermore, it is the case of the petitioners that MCD School is functional on the land in question. However, compensation has not been paid to the petitioners. In these circumstances, a declaration is issued that the suit lands to the extent of 3,000 sq. yards forming part of Khasra No. 165, revenue estate of village Chaukri, Mubarikabad, Delhi with abadi known as Jai Mata Market, Trinagar, Delhi-110035 are free from acquisition by reason of Section 24(2) of the Act of 2013. However, in view of the fact that a school exists on the land in question, the petitioners shall only be entitled to compensation as per the Act of 2013.

8. The writ petition is allowed in above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JANUARY 29, 2018

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