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

% *Date of Judgment: 28th September, 2018*

+ W.P.(C) 9441/2015

RAJEEV & ORS

..... Petitioners

Through: Mr Ravinder Narwal, Adv

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Yeeshu Jain, SC with Ms Jyoti
Tyagi, Adv for LAC/L&B

Mr Dhanesh Relan, SC for DDA with
Ms Gauri Chaturvedi, Adv

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 Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings pertaining to 3 bighas 8 biswas land of the petitioners comprised in Khasra No. 22//2/2/1/2 situated in the revenue estate of Village Pooth Kalan, Delhi (hereinafter referred as the 'subject land') are deemed to have 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 the physical possession has been taken nor compensation has been paid.

2. In this case the notification under Section 4 of the Land Acquisition Act was issued on 11.12.1981, Section 6 declaration was made on 11.04.1984. An Award bearing No. 20/1985-86 was passed on 11.11.1985.

3. Mr Jain, learned counsel for the LAC has drawn attention of the court to paragraphs 4 and 4A of the counter affidavit and submits that the physical possession of the subject land has been taken and compensation has been paid to the recorded owners of the subject land i.e., Suraj Bhan, Kaptan Singh and Pratap Singh being the predecessor in interest of the petitioners herein. Copy of the extract from the *Naksha Mumtazamin* has also been annexed along with the counter affidavit filed by the LAC. Relevant paragraphs 4 and 4A of the counter affidavit are reproduced below:-

“4. That the present writ petition is liable to be dismissed as the actual vacant physical possession of the subject land falling in khasra number 22//2/2/1/2 (3-08) was duly taken on the spot on 13.11.1985 by preparing possession proceedings and handed over to the requisition agency on the spot as also pursuance to the possession proceedings, stated supra, the recorded owners namely Suraj Bhan, Rattan Singh, Pratap Singh & Kaptan Singh having 1/4th share each applied for release of compensation and after processing their applications keeping in view that the physical possession have been taken by the Government, the compensation was duly released to all of them on different dates. Thus the contention of the petitioners that the Government has not taken the physical possession of the subject land nor has paid the compensation is wrong and the present writ petition deserves dismissal.

4A. That it is submitted that the lands of Village Pooth Kalan were notified vide Notification under Section 4 of the Land

Acquisition Act, 1894 dated 11.12.1981 which was followed by the Notification under Section 6 of the Act dated 11.04.1984. The Award was also passed vide Award No. 20/85-86 dated 11.11.85 and the physical possession of the subject land was duly taken on the spot as also the compensation has also been paid to the recorded owners. The petitioners are claiming as legal heirs of the recorded owners. The petitioners are claiming as legal heirs of the recorded owners whereas their ancestors have duly received the compensation by moving appropriate applications. The copies of the application and other related documents exhibiting the proof of payment of compensation are annexed herewith as Annexure R-1 (Colly).”

4. There is no rebuttal to the averments made in the counter affidavit filed by the LAC which has been filed in the month of January 2017, accordingly, having regard to the fact that physical possession of the subject land has been taken and compensation paid, the writ petition is dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 28, 2018
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