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

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**W.P. (C) 782/2018**

RAO SINGH AND ANR.

.... Petitioner

Through: Mr. Amit Rathore, Advocate.

versus

UNION OF INDIA AND ORS.

.... Respondents

Through: Mr. Dev P. Bhardwaj, CGSC  
with Mr. Jatin Teotia, Advocates for  
Respondent No.1/UOI.

Mr. Shekhar Kumar, Advocate for  
Respondent No. 2.

Ms. Arti Bansal, Advocate for  
Respondent/DDA.

Mr. Sumit Purkayastha, Advocate for  
Mr. Naveen Raheja, Advocate for  
Respondent/LAC/L&B.

Mr. K. D. Pandey, Advocate for LR No.  
II, III & IV of Respondent No.4.

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**W.P. (C) 804/2018**

RAO SINGH AND ANR.

... Petitioner

Through: Mr. Amit Rathore, Advocate.

versus

UNION OF INDIA AND ORS.

.... Respondents

Through: Mr. Dev P. Bhardwaj, CGSC  
with Mr. Jatin Teotia, Advocates for  
Respondent No.1/UOI.

Mr. Shekhar Kumar, Advocate for  
Respondent No. 2.

Ms. Arti Bansal, Advocate for  
Respondent/DDA.

Mr. Sumit Purkayastha, Advocate for  
Mr. Naveen Raheja, Advocate for  
Respondent/LAC/L&B.

Mr. K. D. Pandey, Advocate for LR No.  
II, III & IV of Respondent No.4.

**CORAM:**  
**JUSTICE S.MURALIDHAR**  
**JUSTICE TALWANT SINGH**

**ORDER**  
**06.08.2019**

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1. These are two petitions arising out a set of similar set facts and are therefore being disposed of by this common order. Nevertheless, they were heard separately.

2. For the sake of convenience, the facts in W.P. (C) 782/2018 are being referred to first. The prayers in the said petition read as under:

“a) Issue appropriate writ or any other order or direction thereby directing the respondents to compensate the petitioners in respect of their land ad-measuring 4 Bighas, falling in Khasra no.342/258, situated in village Shakarpur Khas, Delhi in accordance with the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013”.

b) Issue order or direction declaring the entire acquisition proceedings to have been lapsed in view of section 24(2) of the Act.”

3. The background facts are that the land in question i.e. 4 *Bighas* in Khasra No. 342/258 situated in Village Shakarpur Khas, Delhi (hereafter, ‘subject land’) was notified under Section 4 of the Land Acquisition Act, 1894 (‘LAA’) on 13<sup>th</sup> November, 1959 for the public purpose of “planned development of Delhi”. This was followed by a declaration under Section 6

dated 18<sup>th</sup> March, 1966. The Land Acquisition Collector ('LAC') passed an award being Award No. 07/1969-70 on 12<sup>th</sup> June, 1969.

4. As far as the Petitioners are concerned, it is stated in the petition that the Petitioners' father Shri Ram Singh was the recorded owner of the subject land. A copy of the *Khatauni* and the *Khasra Girdawari* has been annexed with the petition. Also annexed is a copy of a 'family tree' to demonstrate that the Petitioners are entitled to a 1/3<sup>rd</sup> share each in the subject land. It is stated in the petition that the petition is being filed through the Special Power of Attorney holders, Joginder Rathore and Ashok Sharma, as the Petitioners are not in a position to appear and plead before the Court.

5. It is stated in para 8 of the petition that possession of the entirety of the subject land was taken on 9<sup>th</sup> July, 1969. It is also averred that the subject land was undervalued and no compensation was paid to the Petitioners at the time that possession was taken. It is averred that the Petitioners are entitled to a declaration of deemed lapsing under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 ('2013 Act') on the ground that compensation has not been paid or tendered to the Petitioners. Reference has also been made to the decision of this Court in *Tarun Pal Singh v. Lt. Governor, GNCTD (2015) SCC OnLine Del 9789* to contend that the Petitioners are entitled to compensation under the proviso to Section 24 (2) read with Section 24 (1)(b) of the 2013 Act as compensation has not been paid to a majority of a majority of land holdings.

6. A counter affidavit has been filed on behalf of the DDA. It is averred therein that the acquisition proceedings in respect of the subject land have become final and cannot be challenged at this stage. In this context, reference has been made to the judgment of the Supreme Court in ***Indore Development Authority v. Shailendra* (2018) 3 SCC 412**. It is further averred that possession of Khasra No. 342/258 min (4-11) was taken by the L&B Department on 1<sup>st</sup> June, 1977. It is further averred that the LAC/L&B handed over possession of Khasra No. 342/258 (0-10) on 27<sup>th</sup> August, 1982 to the DDA. Copies of the *Kabza Karawahi* dated 1<sup>st</sup> June, 1977 and 27<sup>th</sup> August, 1982 have been annexed with counter affidavit. It is further averred that 342/258 min (4-11) was transferred to the horticultural department on 5<sup>th</sup> April, 1983.

7. As far as the companion writ petition [W.P. (C) 804/2018] is concerned, the prayers are nearly identical and only differ in respect of the Khasra No. and the extent of the land in Village Shakarpur Khas. As regards possession, it is averred that possession of the land in question was taken on 9<sup>th</sup> July, 1969. The Petitioners, akin to their averments in W.P. (C) 782/2018, state that they are the legal heirs of Shri Ram Singh, who is the recorded owner of the land in question. The DDA has also filed a counter affidavit averring that possession of the land in question has not been handed over to it and that as per the *Khasra Girdwari* the land in question is *Sarkar Daulatmadar*.

8. No rejoinder has been filed by the Petitioners to the counter affidavit of the DDA, in the instance of either of the petitions. Be that as it may, the averment of the Petitioners that they are entitled to compensation is disputed and the DDA's averment that in the *Khasra Girdwari* the land in question is *Sarkar*

*Daulatmadar* has not been denied by the Petitioners. It therefore gives rise to a disputed question of fact, which cannot be examined in the present proceedings.

9. As far as the prayer for compensation to be paid under the 2013 Act, as explained recently by this Court in its decision dated 26th July, 2019 in W.P. (C) 7798 of 2015 (*Randhawa Singh v. Union of India*), it is doubtful whether the remedy in terms of the proviso below Section 24 (2) of the 2013 Act, even assuming it is also a proviso to Section 24 (1) (b) thereof, would be available to the Petitioners. This question is pending consideration before a larger Bench of the Supreme Court on account of the correctness of the decision in *Delhi Metro Rail Corporation Limited v. Tarun Pal Singh* (2018) 14 SCC 161 (reversing this Court's aforementioned decision) being doubted by another Bench of that Court in [*Delhi Development Authority v. Virender Lal Bahri* (2019) SCC online SC 279]. However, even assuming that such remedy is available it presupposes there being no dispute about the entitlement of the Petitioners to compensation and a further admission by the Respondents of non-deposit of the compensation amount. There is no such admission forthcoming in the present case.

10. For the aforementioned reasons, the writ petitions are dismissed.

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**AUGUST 06, 2019/abc**