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

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+ **W.P.(C) 7859/2015**

KISHAN CHAND AND ORS.

..... Petitioners

Through: Mr. M.P. Bhargava, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advocates for LAC/L&B.

Ms Mrinalini Sen, Standing Counsel
for DDA with Mr Tanmay Yadav,
Advocates.

Mr Rajesh Kumar and Ms Santwana,
Advocates for UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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19.02.2019

1. The prayers in the present petition read as under:

- “(i) issue a writ of certiorari and/or any other writ, order or direction of the similar nature declaring the entire acquisition proceedings with respect to 9 Bighas 12 Biswas land of the Petitioner comprised in Khasra Nos.1563 (4-16) & 1564 (4-16), situated in the revenue estate of Village Malikpur Kohi @ Rangpuri, NCT of Delhi having lapsed and further quashing the impugned notification No.F.4(98)/64-L-& dated 23.01.1965 issued under Section 4, Notification F.4(98)/64- L&H dated 06.09.1966 issued under Section 6 of the Land Acquisition Act, 1894 and the Award No. 1958 dated 16.03.1967 with respect to 9 Bighas 12 Biswas land of the Petitioner comprised in Khasra Nos.1563 (4-16) & 1564 (4- 16), situated in the revenue estate

of Village Malikpur Kohi @ Rangpuri, NCT of Delhi.

AND

- (ii) issue a writ of mandamus and/or any other writ, order and direction of the similar nature issuing directions to the Respondents not to disturb or hinder the possession and enjoyment of the Petitioner over 9 Bighas 12 Biswas land of the Petitioner comprised in Khasra Nos.1563 (4-16) &1564 (4-16), situated in the revenue estate of Village Malikpur Kohi @ Rangpuri, NCT of Delhi.”

2. The case of the Petitioners is that although possession of the lands in question has been taken from them, the payment of compensation did not take place prior to coming into force of the the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (‘2013 Act’) i.e. 1st January, 2014.

3. In the response filed to the present petition by the LAC, it is stated that cheques were issued to each of the Petitioners for the compensation amount on 31st December, 2013. The LAC enclosed the copies of the vouchers duly containing the signatures of the respective applicants /Petitioners. The Court has carefully perused those documents which show that the cheques were individually received by each of the Petitioners on 31st December, 2013.

4. While learned counsel for the Petitioners does not dispute the fact that the cheques were handed over, his case is that since the demolition had taken place on that very date, it is not possible that the cheques were simultaneously handed over. According to him, the cheques were perhaps given under coercion.

5. On a specific query by the Court whether the cheques have been encashed, learned counsel for the LAC confirmed that indeed they were encashed by each of the Petitioners. Learned counsel for the Petitioners candidly stated that the cheques were indeed encashed. This means that the cheques were deposited in the accounts of the Petitioners by the Petitioners themselves on some day after 31st December, 2013. Since the cheques having been encashed, it is not open to the Petitioners to turn around and contend that the payments were made under any coercion or duress. In the event that the Petitioners in fact were not tendered the compensation, as claimed by them, the question of their having encashed the cheques did not arise.

6. Therefore, this is not a case where no compensation has been tendered prior to 1st January, 2014, the date on which the 2013 Act came into force.

7. The very foundation of the prayer for the relief under Section 24 (2) of the 2013 Act does not exist. The petition is accordingly dismissed. No costs. The interim order dated 19th August 2015 as confirmed on 15th January 2018 is hereby vacated.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 19, 2019

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