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

+ **W.P.(C) 778/2016**

SUKHBIR SINGH

..... Petitioner

Through: Mr. Anirudh Thakur, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Rajesh Kumar & Ms. Santwana,  
Advocates for Respondent/UOI  
Mr. Yeeshu Jain & Ms. Jyoti Tyagi,  
Advocates for LAC/L & B

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE TALWANT SINGH**

**ORDER**

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**24.07.2019**

1. The prayers in the petition read as under:

“(a) to kindly issue a writ of certiorari and /or any other writ, order or direction of the similar nature thereby holding that the petitioner is entitled for the benefit of first provision after Section 24 (2) of the New Land Acquisition Act 2013, in respect of his acquired land comprised in Khasra nos. 144/93 min (00-12). situated in the revenue estate of Village Kanjhawala, District North West, New Delhi, acquired vide Award No. 03/2012-13 DC (NW) dated 04.02.2013; and, in consequence, thereof.

(b) to kindly direct the respondents to make available the benefit of first provision after Section 24 (2) of the New Land Acquisition Act'2013, in respect of his above said acquired land; and/or

C) to award the cost of the present petition to the petitioner.”

2. The admitted facts are that in respect of the acquisition of the aforementioned land in Khasra No.144/93 measuring 12 Biswas in the revenue estate of Village Kanjhawala, District North West, New Delhi (hereafter 'the subject land'), the notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 12<sup>th</sup> February, 2010 followed by the declaration under Section 6 LAA on 7<sup>th</sup> February, 2011, declaring the intention of the Government to acquire the land for a 'public purpose' namely construction of the Sewage Pumping Station by Delhi Jal Board (DJB)(Respondent No.4). An Award was passed on 4<sup>th</sup> February, 2013 assessing the market value of the subject land, holding the Petitioner alone to be entitled for compensation.

3. It is further stated that physical possession of the land in question was taken by Respondent No.3 i.e. the Land Acquisition Collector, North West (LAC) on 25<sup>th</sup> June, 2013. The possession memos have also been enclosed with the petition. It is stated that the LAC had filed CM (M) No. 1405/2013 in relation to the payment to be made pursuant to the aforementioned Award.

4. A common order was passed therein on 30<sup>th</sup> December, 2013 adverting to the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Re-Settlement Act, 2013 ('the 2013 Act'), stated to be effective from 1<sup>st</sup> January, 2014. The contents of the order passed in the said petition on 30<sup>th</sup> December 2013 is extracted in the present petition. The relevant portions thereof read thus:

“4. Enclosed with the petitions as Annexure- 2 are cheques

drawn in the name of ADJ, Delhi.

5. A meaningful reading of the petitions would reveal that the intendment is to tender the amounts on or before December 31, 2013.

6. The petitions stand disposed off recording that without prejudice to the contentions of land holders the cheques tendered in each petition (being Annexure P-2) would be treated as tender to the Court of the learned Additional District Judge Delhi as of today i.e. December 30, 2013.

7. The Registry is directed to remove the cheques annexed as Annexure P-2 and keep them in safe custody till reopening of the Court. On the reopening the cheques shall be sent to the Court of the concerned Additional District Judge Delhi and for which the following tabular chart shall guide the Registry."

5. As far as the Petitioner herein is concerned, cheque dated 27<sup>th</sup> December, 2013 for a sum of Rs.57,86,320/- was sent to the Court of the learned ADJ at Rohini Court. Subsequently, the Reference Court passed an order dated 21<sup>st</sup> January, 2014 and the compensation amount was kept in FDR and notice was issued to the Petitioner for 16<sup>th</sup> May, 2014. The reference petition was registered as LAC-2B/14.

6. On 16<sup>th</sup> May, 2014, the Petitioner appeared through counsel and finally received the voucher for payment of compensation. The case of the Petitioner in the petition is encapsulated in para 9 of the petition, which reads as under:

"That in view of the admitted position that the said amount of compensation did not reach to the account of the petitioner, being beneficiary of the same, till 31.12.2013 and came to be offered to him or reached to his account through the Ld.

Reference Court, only after commencement of the New Land Acquisition Act, the petitioner is clearly entitled for the due compensation amount in terms of the provisions of New Land Acquisition Act.”

7. In response to the petition, it is pointed out that *inter-alia* since the Award itself was passed within five years of coming into force of the 2013 Act, the relief under Section 24 thereof would not be available. A reference is made to statement made by the Petitioner before the Reference Court on 10<sup>th</sup> November, 2014 that he had received payment towards final satisfaction of the reference petition. Therefore, the Petitioner cannot now seek to re-open the issue. It is submitted that the present petition was filed in 2016 as an afterthought.

8. No rejoinder has been filed to the aforementioned counter affidavit.

9. This case had been earlier adjourned on two occasions to await the judgment of the Constitution Bench of the Supreme Court. However the Court finds that the issue involved in the present petition is not one which is pending consideration before the Constitution Bench of the Supreme Court.

10. Here the facts themselves reveal that the tendering of compensation took place in this Court on 30<sup>th</sup> December, 2013 and the same was noted as such. Moreover, since the Award in question in terms of which compensation has been paid in full to the Petitioner itself was passed within five years of the coming into force of the 2013 Act, the provisions of Section 24 would not apply in the facts of the present case.

11. For the aforementioned reasons, there is no merit in the petition and it is dismissed as such.

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**JULY 24, 2019**  
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