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

+ W.P.(C) 4420/2021, C.M. Appl. No. 13524/2021, 13525/2021

RAMESH CHAND

..... Petitioner

Through: Mr. S.P. Sharma, Advocate

versus

GOVT OF NCT DELHI & ORS.

..... Respondents

Through: Ms. Jyoti Tyagi, Advocate for
Mr.Yeeshu Jain Standing Counsel for
LAC.

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Date of Decision: 08th April, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

CM APPL. 13525/2021 (Exemption)

Exemption allowed, subject to all just exceptions.

W.P. (C) No. 4420/2021 & CM APPL. 13524/2021 (Stay)

1. Present writ has been filed challenging the acquisition proceedings by respondents in respect of petitioner's land admeasuring 77 bigha 08 biswa situated at Khasra No. (0-06), Revenue Estate of Village Basai Darapur, New Delhi under the Land Acquisition Act, 1894.

2. Learned Counsel for the Petitioner submits that the above acquisition has lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act. He states that the award in respect of the land of the petitioner was made in the year 1997. He, however emphasises that, till date, neither the compensation amount has been paid to the petitioner or the other co-owners under section 31 (1) of the Land Acquisition Act, 1894 nor has it been deposited in the Court as mandated under Section 31 (2) of the said Act.

3. He states that the present petition has been filed in view of the leave granted by the learned predecessor Division Bench vide order dated 20th November, 2018 in WP (C) No. 4546/2015.

4. Learned counsel for the respondents, who appear on advance notice, state that the petitioner is not the owner of the land in question as he has no title deed in his favour. They state that the physical possession of the land was taken over from the petitioner long time back.

5. A perusal of the aforesaid Division Bench judgment and order dated 20th November 2018 reveals that the Court refused to entertain the said writ petitions on the ground that the petitioners had failed to establish their clear right/interest/share in the land in question on the basis of the documents produced. The said rationale applies to the present writ petition also. This Court is further of the opinion that no relief can be granted in present writ petition as petitioner's title has not been admitted by the respondent/LAC. Also, the Land Acquisition Act prescribes a special procedure to be adopted for claiming compensation where title of the parties is not admitted.

6. This Court is also of the view that the Constitution Bench of the Supreme Court in *Indore Development Authority vs. Manoharlal and others* (2020) 8 SCC 129, has held that acquisition of land will lapse only if two conditions are fulfilled cumulatively, i.e. (i) possession of land has not been taken over, and (ii) compensation amount has not been paid or deposited or tendered with the LAC. The relevant portion of the Constitution Bench judgment in *Indore Development Authority* (supra) is reproduced hereinbelow:

“In re Issue 6 : Whether Section 24 revives stale and barred claim

340. Before proceeding further, in our opinion, Section 24 contemplates pending proceedings and not the concluded ones in which possession has been taken, and compensation has been paid or deposited. Section 24 does not provide an arm or tool to question the legality of proceedings, which have been undertaken under the 1894 Act and stood concluded before five years or more. It is only in cases where possession has not been taken, nor compensation is paid, that there is a lapse. In case possession has been taken, and compensation has not been deposited with respect to majority of landholdings, the beneficial provision of the statute provides that all beneficiaries shall be paid compensation as admissible under the 2013 Act. The beneficiaries i.e. landowners contemplated under the proviso to Section 24(2), are the ones who were so recorded as beneficiaries as on the date of issuance of notification under Section 4 of the 1894 Act. The provision is not meant to be invoked on the basis of void transactions, and by the persons who have purchased on the basis of power of attorney or otherwise, they cannot claim the benefit under Section 24 as is apparent from the proviso to Section 24(2) and the decision in *Shiv Kumar v. Union of India* [*Shiv Kumar v. Union of India*, (2019) 10 SCC 229 : (2020) 1 SCC (Civ) 82 : (2019) 13 Scale 698].”

7. As, admittedly the possession of the land in question is with the respondent/LAC, this Court is of the view that the petitioner is not entitled to the relief as prayed for.

8. Consequently, the present writ petition and applications are dismissed.

MANMOHAN, J

ASHA MENON, J

APRIL 08, 2021

Pkb/KA



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