



\$~11

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

%

Date of Decision: 22.04.2024

+

W.P.(C) 7571/2015 CM APPL. 44578/2023**R K JAIN**

..... Petitioner

Through: Mr.Sunil Malhotra, Mr.Santosh
Srivastava, Ms.Sudha Srivastava
Saxena, Mr.Sohail Alam Khan,
Ms.Priya Mishra, Mr.Amit Agnihotri,
Ms.Priyanka Midha, Mr.Sachin
Khattar, Mr.Himanshu Kauashik,
Mr.Sahilk Wadhwa, Mr.Arinder
Kaur, & Ms.Madhur Kumari, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Vijay Joshi, Mr.Shubham
Chaturvedi, Advocates for R1/UOI.
Ms.Manika Tripathy, Mr. A. Kaushik
& Mr.N. K Saraswat, Advs. for DDA.
Mr.Siddharth Panda, Adv. for R4&5.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MS. JUSTICE TARA VITASTA GANJU****VIBHU BAKHRU, J.**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

‘pass an appropriate Writ, Direction or order directing the respondents to release the land of the petitioner bearing no Khasra No.653,654,657 and 658 situated in Village Kilokri, Delhi acquired under Section 4 of the Land Acquisition Act.’

2. The plain reading of the petition indicates that it is premised on the basis that the acquisition in respect of the land comprising of Khasra Nos. 653, 654, 657 and 658 situated in Village Kilokri, Delhi (hereafter *the*



subject land) be lapsed, as the possession has not been taken over by the petitioner. The petitioner claims that he is the owner of the land comprising in Khasra Nos.657 and 658 and has occupancy rights in respect of the land in Khasra Nos.653 and 654.

3. The petitioner challenges the acquisition of the subject land on the basis that the possession of the subject land was not taken over by the concerned authority and therefore, the acquisition of the subject land had lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter *the 2013 Act*).

4. The learned counsel appearing for the petitioner claims that the compensation in respect of the subject land was not paid. He now concedes that the possession of the subject land has been taken over by the concerned authority. The petitioner claims that it was inadvertently averred in paragraph 3 of the writ petition, that the petitioner was in possession of the land in Khasra No.623 instead of the correct Khasra No.653.

5. It is also relevant to note that prior to the filing of the above captioned petition, the petitioner instituted a petition [W.P.(C) No.3166/1990] challenging the Notification dated 23.06.1989 issued under Section 4 of the Land Acquisition Act, 1894 (hereafter *the Act*) as well as the declaration made under Section 6 of the Act dated 22.06.1990 in respect of the subject land. The said petition was dismissed by this Court by a common judgment dated 28.05.2005. The Special Leave Petition preferred by the petitioner against the said decision [SLP (C) No.25972-73/2005] was also dismissed by an order of the Supreme Court dated 17.02.2015.

6. In view of the decision rendered by the Constitution Bench of the



2024 : DHC : 3338-DB



Supreme Court in *Indore Development Authority v. Manohar Lal and Ors.*: (2020) 8 SCC 129, the petitioner's challenge of the acquisition of the subject land on the ground that it has lapsed in view of Section 24(2) of the 2013 Act, fails. Concededly, the possession of the subject land was taken over by the concerned authority and therefore, the twin conditions of Section 24(2) of the 2013 Act are not satisfied.

7. The petitioner states that since he has not received the compensation for the subject land, he would be entitled to certain reliefs under the 2013 Act.

8. As noted, the above captioned petition is confined to the challenge of the acquisition of the subject land under Section 24(2) of 2013 Act.

9. The petition is accordingly dismissed. Pending application also stands disposed of. This order will not preclude the petitioner from agitating any other remedy in respect of the compensation of the subject land. All the rights and contentions of the parties are reserved.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

APRIL 22, 2024

M

Click here to check corrigendum, if any