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

+ **W.P.(C) 13047/2023 & CM APPL. 51559/2023**

BALKAR SINGH & ANR.

..... Petitioners

Through: Ms. Amrita Mishra, Advocate with
Petitioners in person.

versus

LAND ACQUISITION COLLECTOR AND ORS. Respondents

Through: Mr. Sanjay Kumar Pathak, Standing
Counsel with Mr. Sunil Kumar Jha
and Mr. M.S. Akhtar, Advocates for
R-1.

Mr. Sushil Raaja, SPC for R-2.

Mr. Prabhat Kumar and Mr. Sahil
Awana, Advocates for R-3.

Ms. Shobhana Takiar, Standing
Counsel with Ms. Razia, Advocate for
DDA.

Ms. Aakriti Garg and Ms. Parvinder
Chauhan, Advocates for DUSIB.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

27.05.2024

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1. The petitioner has filed the present petition *inter alia* praying for a declaration to the effect that the acquisition of the subject land (land bearing 1 Bighas and 2 Biswas in Khasra No. 63 of Jahangirpuri) has lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

2. The petitioner had filed an earlier petition being W.P.(C) 2944/2013, which was allowed by an order dated 27.05.2014 on the ground that the



compensation of the subject land had not been paid. The said order is set out below:

“In this writ petition the only land in question is the land to the extent of 1 bigha and 2 biswas falling under khasra number 63 of village Bhalswa, Jahangirpur, Delhi. In respect of the said land acquisition proceedings had been initiated under the Land Acquisition Act, 1894 (hereinafter referred to as the old Act). The award number 24/2055-06 under section 11 of the old Act was made on 03.02.2006. Possession of the subject land which stood in the name of petitioner no.1 was purportedly taken on 26.04.2008. However, admittedly, compensation in respect of the 1 bigha and 2 biswas of land comprised in khasra number 63 was not paid. Consequently, in view of the decision of the Supreme Court in Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors: 2014 (3) SCC 183, the provisions of section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the new Act) would apply. This is so because the award has been made more than five years prior to the commencement of the new Act and although possession has purportedly been taken, the compensation has not been paid in respect of the said 1 bigha 2 biswas of land comprised in the said khasra number 63. As such the acquisition proceedings initiated under the old Act in respect of the said 1 bigha 2 biswas land is deemed to have lapsed.”

3. Admittedly, the petitioner has not raised any dispute regarding the said order. It is also relevant to refer to the counter affidavit filed by the Land and Building Department whereby it was affirmed that the Land and Building Department had taken over possession of the land falling in Khasra No.63 of Village Jahangirpuri. The relevant extract of the said counter affidavit is set out below:

“9. That it is submitted that the Khasra No. 63 as pertains to the petitioner also fell in both the said Notifications, the possession of which was duly taken by the answering respondent vide Possession Proceedings dated 26.4.2008. The possession of the acquired land including the land of the petitioner was immediately handed over to the officials of the Slum & JJ Department on the spot.”

4. In view of the above, we cannot accept that the possession of the



subject land was not taken over by the concerned authorities. Notwithstanding the same, the Court had allowed the petition on the interpretation of Section 24(2) of the Act as construed by the Supreme Court in *Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki & Ors.: 2014 (3) SCC 183*. The said decision has since been overruled by the decision of the Constitutional Bench of the Supreme Court in *Indore Development Authority v. Manoharlal & Ors.: (2020) 8 SCC 129* which was delivered after the present petition was filed. The Supreme Court has held that in order for acquisition to lapse by virtue of Section 24(2) of the Act, both the conditions are required to be cumulatively satisfied, and that possession of the said land has not been taken over and compensation for the same has not been paid.

5. Since in the present case, possession of the subject land was taken over, the two conditions are not cumulatively satisfied.

6. In the aforesaid view, the prayer made in the present petition cannot be acceded to. The petition is accordingly dismissed. Pending application also stands disposed of.

7. It is clarified that all other rights of the parties are reserved.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 27, 2024

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[Click here to check corrigendum, if any](#)