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

% *Date of Decision: 02.04.2024*

+ **W.P.(C) 9396/2018 CM APPL. 38544/2023**

KAMLESH SHARMA Petitioner

Through: Mr.Ashok Gurnani, Dr.Manish
Agarwala, Ms.Namrata Sharma,
Ms.Rambha Singh and
Mr.Hitesh Solanki, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Sanjay Kumar Pathak, SC
and Mr.Sunil Kumar Jha,
Mr.M.S.Akhtar, Ms.Nidhi
Thakur, Ms.Musarrat Benazeer
Hashmi, and Mr.Mayank Arora,
Advocates for R1/LAC/ADM.
Mr.Nitin Mishra, Advocate for
DDA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE SHALINDER KAUR

VIBHU BAKHRU, J.

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

‘a. Issue a writ of mandamus or any other suitable writ order or direction in the like nature thereby holding that the acquisition Proceedings resulting from the Award No. No.21 /DC (EAST)/2004-05 DATED 21/12/2004, of Village KARKAR DOOMA,



Delhi- in respect of land of bearing Khasra No. 1386 Min measuring 09 Biswas (i.e.450 Sq.Yds. Petitioner is subsequent purchaser) Situated in the Revenue Estate of Village Karkar Dooma, Shahdra, Delhi is null, void and all subsequent proceedings conducted therein stood lapsed in view of the provisions of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act,2013.

b. Direct the respondents to release the aforesaid land of the Petitioner forming part of Khasra No. 1386 Min measuring 09 Biswas (i.e.450 Sq.Yds. Petitioner is subsequent purchaser) Situated in the Revenue Estate of Village Karkar Dooma Shahdra, Delhi form acquisition proceedings.'

2. The petitioner claims that the part of land falling in Khasra No.1386 Min measuring 09 Biswas (450 square yards) situated in the Revenue Estate of Village Karkar Dooma, Shahdara, Delhi (hereafter the *subject land*) was acquired by the father-in-law of the petitioner on 24.10.1980.

3. The petitioner purchased the subject land through General Power of Attorney, Agreement to Sell and Receipt dated 07.04.1992 from her father-in-law. It is stated that the father-in-law of the petitioner expired on 02.04.1995.

4. The subject land was acquired under the Land Acquisition Act, 1894 (hereafter the *1894 Act*). The notification under Section 4 of the 1894 Act was issued on 13.03.1975. This was followed by the declaration under Section 6 of the 1894 Act *vide* notification dated



22.02.1978.

5. After the issuance of the declaration under Section 6 of the 1894 Act, certain persons filed the CWP No.623/1977 captioned ***Sita Ram Bhandar & Anr. v Land Acquisition Collector & Ors.*** before this Court, *inter alia*, praying that they be not dispossessed from the acquired land. It is stated that in the said writ petition, interim order was passed directing the Land Acquisition Collector not to make an award with regard to the certain lands including the subject land. The said writ was dismissed by this Court on 22.08.2003.

6. Thereafter, notification under Section 17(1) of the 1894 Act was issued on 02.09.2003. It is affirmed by the respondents that the possession of the subject land was taken over by the Land and Building Department on 22.09.2003. It is claimed that thereafter, notice under Section 9 of the 1894 Act was issued inviting the claims from owners /occupants and interested persons. It is also affirmed that the Delhi Development Authority (hereafter the *DDA*) had issued payments for an aggregate amount of ₹79,54,073/- and the same was deposited with the Land and Building Department. Thereafter, the said amount was deposited with the Land Acquisition Collector/learned Additional District Judge on 11.02.2008.

7. The petitioner's challenge to the acquisition rests squarely on Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter the *2013 Act*). According to the petitioner, neither the



possession of the subject land was taken over nor has the compensation been paid. It is contended on behalf of the petitioner that depositing the consideration by the beneficiary with the Land Acquisition Collector or the learned Additional District Judge would not amount to payment for the purpose of Section 24(2) of the 2013 Act.

8. Mr.Pathak, learned counsel appearing for the LAC has countered the aforesaid submissions. He has rightly pointed out that the controversy involved in the present case is squarely covered by the decision of the Constitution Bench of the Supreme Court in ***Indore Development Authority v. Manohar Lal & Ors: (2020) 8 SCC 129.***

9. In view of the said decision, an acquisition would lapse only if both the conditions as set out under Section 24(2) of the 2013 Act are satisfied; that is, possession of the land has not been taken over and the compensation has not been paid.

10. In the present case, it has been affirmed that the possession of the subject land was taken over and there is no dispute that the compensation for the same was paid by the beneficiary to the LAC and was thereafter deposited with the learned Additional District Judge. Merely because the land owners / right holders have not collected the compensation would not affect the acquisition of the subject land.

11. Additionally, it is submitted that the petitioner would have no locus to challenge the acquisition since the petitioner and her



predecessor-in-interest, had acquired the land after the notification under Section 4 and the declaration under Section 6 of the 1894 Act were published.

12. Mr Gurnani, the learned counsel appearing on behalf of the petitioner has handed over the note of written submissions. He contends that the decision of the Supreme Court in ***Indore Development Authority v. Manohar Lal & Ors*** (*supra*) is *per curiam*. This contention is unsubstantiated. It is apparent from the reading of the pleading that the petitioner's challenge to the acquisition of the land must fail as the twin conditions set out under Section 24(2) of 2013 Act are not satisfied.

13. Additionally, we find merit in the contention that the petitioner being subsequent purchaser cannot challenge the acquisition proceedings. [See: ***Shiv Kumar and Anr vs. UOI and Ors : 2019 (10) SCC 229***].

14. It is also noticed that in the written submissions handed over in the Court today, the petitioner also claims that she deserves appropriate compensation in regard to the subject land. Clearly, the said contention is beyond the relief sought in the present petition. The petitioner has not sought any relief in regard to the payment of compensation with respect to the subject land. Mr Gurnani states that the last sentence in the written submissions have been placed inadvertently and the petitioner is not claiming any relief regarding the compensation in this petition.



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15. In view of the above, the petition is dismissed. Pending application also stands disposed of.

VIBHU BAKHRU, J

SHALINDER KAUR, J

APRIL 02, 2024

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Click here to check corrigendum, if any