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

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Date of Decision : 19.02.2025

+ **W.P.(C) 12057/2015**

CHANCHAL MITTAL

.....Petitioner

Through: Mr D V Khatri, Mr Harshad Gupta
and Mr S S Khatri, Advocates.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms Manika Tripathy, SC, Mr
Ashutosh Kaushik, Mr Gautam Yadav
and Mr Sanjay Singh, Advocates for
DDA.

Mr Sanjay Kumar Pathak, SC, Mr
Sunil Kumar Jha, Mr M S Akhtar, and
Mr Mayank Madhu, Advocates for
R2 and R4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (Oral)

1. The petitioner has filed the above captioned petition, *inter alia*, praying that the acquisition of land comprising in Khasra No.47/5min, measuring 1 bigha, situated in the revenue estate of Village Mamoorpur, Narela, Delhi-110040 (hereafter *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*).



2. The Notification under Section 4 of the Land Acquisition Act, 1894 (hereafter *the LA Act*) in respect of certain lands including the subject land was issued on 02.05.2001. This was followed by a declaration under Section 6 of the LA Act, which was issued by a Notification dated 23.04.2002. Thereafter, an award under Section 11 of the LA Act (Award no.28/2003-04) was made on 17.02.2004 in respect of the acquired lands falling within the revenue estate of Village Mamoorpur including the subject land.

3. It is the petitioner's case that he has neither received compensation for the subject land nor has the Land Acquisition Collector (hereafter *the LAC*) taken over possession of the subject land.

4. The present petition was allowed by a judgment dated 02.08.2016. We consider it relevant to refer to paragraph no.3 of the said decision, which sets out the grounds on which the above captioned writ petition was allowed. The same is set out below:

“3. It is an admitted position that neither physical possession of the subject lands has been taken by the land acquiring agency, nor has any compensation been paid to the petitioner. The award was made more than five years prior to the commencement of the 2013 Act. All the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:-

(i) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC 183;**

(ii) **Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC 564;**

(iii) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No. 8700/2013 decided on 10.09.2014; and**



(iv) **Surender Singh v. Union of India and Ors.:**
W.P.(C) 2294/2014 decided 12.09.2014 by this Court.”

5. The Delhi Development Authority (hereafter *the DDA*) had preferred a Special Leave Petition (SLP) before the Supreme Court against the same decision being Special Leave Petition (Civil) Diary No. 15397/2021. By an order dated 18.11.2022, the Supreme Court had granted leave and disposed of the appeal being Civil Appeal No.8566/2022 arising from the aforementioned SLP, by setting aside the judgement dated 02.08.2016 and remanding the matter to this court to decide afresh after affording the parties opportunity to file the requisite documents along with an affidavit.

6. Pursuant to the said order, the present petition was once again listed before this court on 30.11.2022 and the learned counsel appearing for respondent no.5/DDA sought time to file an additional affidavit and it was ordered accordingly. Notice was also issued to respondent no.1 and the petition was listed on 15.03.2023. The DDA filed an additional affidavit albeit belatedly. Respondent no.1 was served, however, it did not file any further affidavit or documents. However, DDA had subsequently filed an additional affidavit.

7. In view of the above, the present petition is required to be considered on the basis of the pleadings and affidavits on record.

8. It is material to note the averments made in paragraph no.4 of the counter affidavit filed on behalf of the LAC. The same is set out as under: -

“4 That the present writ petition is liable to be dismissed on delay and laches as the recorded owner/ petitioner never preferred to challenge the acquisition



proceedings. It is submitted that as per the Award, in view of the pendency of CWP No.6970-7053/2004, the possession of the subject land could not be taken, however the said writ petition was dismissed on 7.5.2004 as withdrawn. The possession of the subject land could not be taken nor the compensation been paid.”

[emphasis added]

9. It is clear from the above that it is the uncontroverted stand of the LAC that it had not taken over the possession of the subject land and had not paid the compensation for the same. The LAC also explained that it had not taken over the possession on account of the pendency of the CWP No.6970-7053/2004. However, it is not disputed that the said petition was disposed of by an order dated 07.05.2004 passed by the Coordinate Bench of this court, which reads as under: -

“Learned counsel for the petitioners seeks leave to withdraw the writ petitions with liberty to the petitioners to make representations under Section 48 of the Land Acquisition Act, 1894 to the authorities concerned for denotification of the subject lands.

The writ petitions and the applications are dismissed as withdrawn with liberty as prayed. We hope and expect that as and when such representations are made, the same shall be dealt with as expeditiously as practicable.”

10. It is apparent that there was no impediment for the LAC to take the possession of the subject land after the aforementioned writ petition was disposed of. However, neither the possession of the subject land was taken over nor the compensation was paid for the same.

11. It is also material to refer to the additional affidavit filed on behalf of



the DDA. Paragraph no.5 of the said additional affidavit is relevant and is set out below:-

“5. That it is submitted that the Physical possession of the land in question was not handed over to DDA by LAC, Land & Building Department, GNCTD due to litigation pending in the Hon'ble High Court in WP(C) No. 6970-7053/2004. This fact has been mentioned in the handing and taking over possession document dated 08.09.2004, the date fixed for taking over possession. It is further submitted that though the possession of the land in question has not been handed over to DDA but the acquisition on the above-mentioned land in question is complete. A copy of the handing and taking Over possession document dated 08.09.2004 is enclosed and marked as Annexure R1.”

12. Notwithstanding the above, the DDA's case is that the acquisition is completed. However, the DDA also does not dispute that neither the possession of the subject land was taken over nor the compensation was paid. Thus, the acquisition lapsed by virtue of Section 24(2) of the 2013 Act.

13. It is also relevant to note the decision in *Sh. Suresh Kumar v. Union of India & Others: Neutral Citation:2016:DHC:5458-DB*, which also concerns the land falling in larger Khasra No.47, in the revenue estate of Village Mamoorpur, Narela, Delhi. In that case, the petitioner had challenged the acquisition of the said land on the ground that the same had lapsed by virtue of Section 24(2) of the 2013 Act.

14. The LAC had filed the counter affidavit and paragraph no.4 of the said affidavit is similarly worded as the counter affidavit filed in this case. The judgment passed by this court in the case of *Sh.Suresh Kumar v. Union of India & Others (supra)* is set out below: -



“1. The counter affidavit handed over by Mr Yeeshu Jain on behalf of the respondent no.4 is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit as the necessary averments are contained in the writ petition.

2. By way of this writ petition the petitioner is seeking the benefit 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 2013 Act’) which came into effect on 01.01.2014. The petitioner, consequently, seeks a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as ‘the 1894 Act’) and in respect of which Award No.28/2003-04 dated 17.02.2004 was made, *inter alia*, in respect of the petitioner’s land comprised in khasra nos. 47//5 min (2-08), 47//6/1 min (2-6), 47//6/2 min (0-02), 48//10/1 min (0-11) measuring 5 bighas 7 biswas in village Mamoorpur, Narela, Delhi, shall be deemed to have lapsed.

3. It is an admitted position that neither physical possession of the subject lands has been taken by the land acquiring agency, nor has any compensation been paid to the petitioner. The award was made more than five years prior to the commencement of the 2013 Act. All the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:-

(i) Pune Municipal Corporation and Anr v.

Harakchand Misirimal Solanki and Ors:
(2014) 3 SCC 183;

(ii) Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC 564;

(iii) Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No.8700/2013 decided on 10.09.2014; and

(iv) Surender Singh v. Union of India and



Ors.: W.P.(C) 2294/2014 decided
12.09.2014 by this Court.

4. As a result the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared.

5. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.”

15. The LAC had appealed the said decision in ***Sh. Suresh Kumar v. Union of India & Others*** (*supra*) before the Supreme Court by filing a Special Leave Petition being SLP (C) No. 4350/2023 and 3101/2022. However, the Supreme Court rejected the said SLP by an order dated 27.02.2023, which reads as under: -

“Delay condoned.

In the facts and circumstances of the case and taking into consideration para 4 of the counter filed by the LAC before the High Court, no interference of this court is called for.

The Special Leave Petition stands dismissed.

Pending applications stand disposed of.”

16. As noted above, paragraph no.4 of the counter affidavit, on the basis of which the Supreme Court had rejected the SLP, filed by the LAC is identically worded as paragraph no.4 of the counter affidavit filed in this case.

17. In another case captioned ***Ashok Kumar v. Union of India & Others: Neutral Citation: 2024:DHC:4261-DB***, this court had also allowed the petition seeking similar relief in regard to the land falling in Khasra No.47//6/1/ min measuring (0-19) biswas, situated in the revenue estate of



Village Mamoorpur, Narela, Delhi – 110040. The LAC's defence in the said case is identical to its defence in this case. It was admitted that the LAC had neither taken over possession of the land nor paid the compensation for the same. The LAC had averred that the possession was not taken over on account of stay order passed in W.P. (C) No. 6970-7053/2004. This court noted in the order dated 14.05.2024 whereby the said petition (W.P. (C) No. 6970-7053/2004) was disposed of and observed as under:-

“6. It is apparent from the above, the writ petition referred to by the LAC in its affidavit has been disposed of prior to 08.09.2004. Thus, there was no impediment for the LAC to take possession of the subject land on 08.09.2004. The entire case of the LAC rests on premise that there was stay order, which prevented it from taking over the possession of the subject land. The said assumption is incorrect.

7. In view of the above, the present petition is required to be considered on the basis that neither the compensation was paid to the petitioner nor the possession of the subject land was taken over. Thus, both the conditions as stipulated in terms of Section 24(2) of the 2013 Act, are satisfied.”

18. Mr Pathak, the learned counsel appearing for the LAC submits that in the present case, the petition has been filed by the General Power of Attorney (hereafter *the GPA*) holder and it is possible that the petitioner may have expired and the GPA may not be valid. He also submits that the GPA may be a camouflage to transact with the subject land as the GPA filed along with the present petition indicates that the subject land was acquired.

19. These contentions are stoutly disputed by the learned counsel for the



petitioner. He submits that the petitioner is alive and the GPA had been granted for administration of the properties. The recorded owner (petitioner) has not transacted with the subject land. And, the present petition is filed by the original owner to protect his rights, although through a constituted attorney.

20. It is also material to note that no such objection was raised by the LAC in the counter affidavit and the LAC has also not filed any additional affidavit despite further opportunity granted by the Supreme Court in terms of the order dated 18.11.2022 passed in SLP (C) Diary No. 15397/2021 whereby the present petition was remanded to this court for hearing afresh. It is material to note that no such objection has been taken by the DDA as well.

21. In view of the above, we find that the contention that the petitioner is not the real owner of the subject land, is unsubstantiated and the same be rejected.

22. In view of the above, we allow the present petition and declare that the acquisition of the subject land is lapsed by virtue of Section 24(2) of the 2013 Act.

23. The petition is disposed of in above terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

FEBRUARY 19, 2025

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