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

% *Date of Decision: 04.03.2025*

+ W.P.(C) 3905/2017

INDIRA BAHUGUNA AND ORSPetitioners

Through: Mr Praveen Suri, Advocate.

Versus

LT GOVERNOR OF DELHI AND ORSRespondents

Through: Mr Siddharth Panda with Mr Ritank
and Mr Anil Pandey, Advocates for
R1 to R3.

Ms Manika Tripathy, Standing
Counsel with Mr Ashutosh Kaushik,
Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J (Oral)

1. The petitioner has filed the present petition, *inter alia*, praying that the acquisition of the land described as land comprising in Khasra nos. 990(4-16) and 930 (2-5) situated in the Revenue Estate of Village Satbari, Tehsil, Saket, New Delhi [**subject land**] be declared as lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [**2013 Act**].

2. The notification under Section 4 of the Land Acquisition Act, 1894 [**LA Act**] in respect of certain lands including the subject land was published on 25.11.1980. This was followed by a declaration under Section 6 of the LA Act which was issued on 27.05.1985. The award being Award No. 14, 1987-88 [**the Award**] under Section 11 of the LA Act was



pronounced on 26.05.1987.

3. It is the petitioners' case that the subject lands were owned by their predecessor-in-interest, Sh. Shambhu Prasad Bahuguna who expired on 10.11.2012. The petitioners claim to be his legal heirs, and assert that they continue to be in physical possession of the subject land. They also state that they have not received any compensation for the subject land.

4. The petitioners have also produced photographs in support of their contention. The said photograph shows that the land in question is a vacant land and one of the petitioners is present at the site.

5. Respondent no. 3 [LAC] has filed a counter-affidavit, *inter alia*, stating as under:

“4. That it is submitted that the lands of village Satbari were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 25.11.1980 which was followed by the Notification under section 6 of the Act. The Award was also passed vide Award No.14/87-88 dated 26.5.87 and the actual vacant physical possession of the subject land Khasra No.990 (4-16) and 930 (2-5) was taken on 14.7.1987 on the spot and handed over to DDA by preparing possession proceeding on the spot. As per statement A available with this office the compensation amount Rs.2,08,553.51 in the name of Sh. Shambhu Prasad Bhuguna S/o Pt. Ganga Ram was sent in RD.”

6. The respondent no. 2 (DDA) has also filed an affidavit affirming that the possession of the subject land was taken over and handed over to the DDA. The relevant averments made in this regard are set out below:

“(k) I say that the petitioners are claiming to be legal representatives of late Shri Shambhu Prasad Bahuguna owners and in possession of land bearing Khasra No.990 (4-16) and 930 (2-5) situated in Revenue Estate of Village Satbari, Delhi. As per the



available record, the land bearing Khasra No.930 (3-14) and 990 (4-16) situated in the Revenue Estate of Village Satbari, Delhi was notified under Section 4 on 25.11.1980 and under Section 6 on 27.5.1985 for public purpose for planned development of Delhi following due process of law. After notifications under Sections 4 & 6, the land stands acquired vide Award no.14/1987-88. Physical possession of the same has been handed over to DDA by the Land Acquisition Collector (South)/L&B Department, Govt. of NCT of Delhi on 14.7.1987. The new Acquisition Act “The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013” is not applicable in the present case because physical possession of the same was handed over to the DDA on 14.7.1987 and the new Land Acquisition Act came into force w.e.f. 01.01.2014. Copy of the possession proceedings dated 14.7.1987 are annexed as ANNEXURE R.2/1.”

7. The copy of the possession proceedings have also been enclosed with the counter-affidavit filed on behalf of DDA. The said proceedings indicate that the possession proceedings were undertaken on 14.07.1987 and a memorandum of taking over the vacant land measuring 1763 bighas and 19 biswas was recorded. The lands mentioned in the record of the said proceedings include the subject land.

8. The above-captioned petition was allowed by this court on the ground that notwithstanding the claim of the respondents that the possession of the subject land was taken over, the compensation for the subject land had not been paid. This court, following the decision of the Supreme Court in ***Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Others: (2014) 3 SCC 183***, had held that if either of the two conditions as specified under Section 24(2) of the 2013 Act was satisfied, the acquisition would lapse. Since in the present case, the court had found that the compensation had not been paid, it held that Section 24(2) of the 2013 Act



was applicable.

9. The DDA had assailed the said judgment dated 02.02.2018 passed by this court before the Supreme Court by filing a special leave petition being SLP(C) Diary No.6922 of 2020. The Supreme Court had granted leave and allowed the appeal on the ground that the decision in the case of ***Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Others*** (*supra*), on the strength of which this court had allowed the above-captioned petition, had been subsequently overruled by the Constitution Bench of the Supreme Court in ***Indore Development Authority v. Manoharlal and Ors.: (2020) 8 SCC 129***. The petition was remanded to this court for hearing afresh.

10. In ***Indore Development Authority v. Manoharlal and Ors.*** (*supra*) the Supreme Court had authoritatively held that for an acquisition to lapse by virtue of Section 24(2) of the 2013 Act both the conditions – possession of the subject land has not been taken over and compensation has not been paid – were required to be satisfied cumulatively. The court had also referred to the earlier decision of the Supreme Court in ***Banda Development Authority, Banda v. Moti Lal Agarwal & Ors.: (2011) 5 SCC 394*** where the principles regarding the manner of taking possession of the land was summarised. The court had proceeded to observe that “*once possession has been taken by drawing a panchnama, the State is deemed to be in possession of the entire area and not a part. There is absolute vesting in the Government with possession and control free from all encumbrances as specifically provided in Section 16 of the 1894 Act.*”

11. The court did not approve the method of determining possession by appointment of a Commissioner and reiterated that “*drawing of panchnama*



by itself is enough and is a proof of the fact that the possession has been taken". Additionally, the Supreme Court highlighted that expression used in Section 24 is "possession" and not "physical possession" and held that the land vests in the State on drawing of *panchnama* of taking possession. Thereafter retaining of the possession by the erstwhile land owners is wholly illegal and inures to the benefit of the State.

12. In view of the above, it is apparent that the possession of the subject land was taken over by the respondents. Thus, notwithstanding the petitioners claim to be in physical possession of the subject land, the acquisition of the subject land cannot be declared as lapsed by virtue of Section 24(2) of the 2013 Act.

13. The petition is accordingly dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

MARCH 04, 2025/tr

Click here to check corrigendum, if any