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

+ **W.P.(C) 67/2015, CM APPL.104/2015**

HARSH AHUJA & ANR. Petitioners

Through: Mr. Arjun Nanda, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for
L&B/LAC with Ms. Jyoti Tyagi, Advocate.

Mr. Pawan Mathur, Standing Counsel for DDA.

Mr. Ruchir Mishra, CGSC for UOI with Mr.
Mukesh Kumar Tiwari, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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11.04.2017

The petitioners seek relief by way of direction that the acquisition of their lands [Khasra No.790/1-2/4 (2-4 $\frac{3}{4}$)] of Village Satbari which was subject of Award No.14/87-88 elapsed and the declaration to that effect be made under Section 24 of the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter referred to as “the Land Acquisition Act, 2013”).

The necessary facts are that the petitioners’ land being Khasra No.790/1-2/4 (2-4 $\frac{3}{4}$) in the revenue estate of Village Satbari was

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notified for acquisition on 25.11.1980. Subsequently, Section 6 Notification under the Land Acquisition Act, 2013 was made. The respondents published an Award No.14/87-88. It is contended that no actual possession was taken, but that only paper possession of the notified land was taken by the respondents and that no compensation was paid to the land owners.

The respondents, i.e., LAC/GNCTD objected to the proceedings contending that the petitioner is a subsequent purchaser and by virtue of Section 4 of the Delhi (Restriction on Land Transfer) Act, 1971, it could not have claimed title. It is contended, therefore, that the petitioner lacks *locus standi* to maintain these proceedings. Learned counsel also argues that actual physical possession was taken from the land owner at the relevant time, i.e., on 14.07.1987 and that the petitioners subsequently purchased the land on 26.02.1991. Furthermore, it is contended that the compensation was deposited in the Revenue Department at the appropriate stage.

As far as the objection with respect to the petitioner's *locus standi* is concerned, the Court is of the opinion that the previous ruling of this Court in *N.S.Vasisht vs. Union of India & Ors.* (W.P.(C) 7731/2015, decided on 19.02.2016) squarely addresses the issue. In that judgment it was stated as follows: -

“7. There is no doubt that in the context of the 1894 Act the Supreme Court clearly held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to seek compensation. But, the position obtaining at present is different. This is a petition which does not seek to challenge the acquisition proceedings but seeks a declaration

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of a right which has enured to the benefit of the petitioner by virtue of the operation of Section 24(2) of the 2013 Act. Once the acquisition is deemed to have lapsed because of the operation of the deeming provision of Section 24(2) of the 2013 Act, the benefit of the same cannot be denied to the petitioner on the ground that the petitioner is a subsequent purchaser. This is, of course, provided that the conditions precedent for the application of the deeming provision contained in Section 24(2) of the 2013 Act are satisfied.

8. 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.”

In view of the above observations, it has to be held that the petitioner has appropriate locus to maintain the proceedings.

So far as the issue of merits is concerned, we notice that at least five judgments of the Supreme Court and of this Court, i.e.,

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

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

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

(4) Surender Singh v. Union of India & Others: WP(C) 2294/2014 decided on 12.09.2014 by this Court; and

(5) Girish Chhabra v. Lt. Governor of Delhi and Ors: WP(C) 2759/2014 decided on 12.09.2014 by this Court.



have categorically ruled that in either case, i.e., absence of taking over of possession or tendering of compensation to the land owners, provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 applies. In the present case, the respondent's pleadings are absolutely bereft of any detail as to whether it offered the compensation or tendered it. In these circumstances, the petitioner is clearly entitled to the relief claimed.

A direction is, therefore, issued to the effect that the acquisition of the land to the extent that it was owned by the predecessor of the petitioner, i.e., Asa Ram Maheshwari [Khasra No.790/1-2/4 (2-4 ³/₄)] is deemed to have elapsed under Section 24 (2) of the 2013 Act.

The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 11, 2017

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