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

+ W.P.(C) 177/2015

RAKESH BANSAL

.....Petitioner

Through: None.

Versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms. Shobhana Takiar & Mr. Kuljeet Singh, Advs. for DDA.

Ms. Manika Tripathy, Adv. for DDA.

Mr. Sanjay Kumar Pathak, Ms. K.K.

Kiran Pathak, Mr. Sunil Kumar Jha,

Mr. Mayank Madhu & Mr. S.S.

Siddique, Advs. for R-4&5.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

28.02.2025

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1. None appears for the petitioner.
2. It is seen that none had appeared on behalf of the petitioner on previous date of hearing as well [that is, hearing held on 09.01.2025]. The court notice issued to the petitioner pursuant to the order dated 12.09.2024 was returned unserved with a noting to the effect that the petitioner has sold the premises.
3. The petitioner has filed the present petition, *inter alia*, praying that acquisition of the land, described as land measuring 900 sq. yds. in Khasra No.111/2(4-4), situated in the Revenue Estate of village Pipalthala, Delhi (hereafter the *subject land*), be declared as lapsed.
4. The petitioner claims that he is in physical possession of the subject land and has also not received any compensation for the same.



5. The present petition was allowed by a judgment dated 14.12.2015. The court had noted that there was a controversy whether physical possession of the subject land was taken over. However, without going into the said controversy, had held that the acquisition of 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*) as the compensation was not paid.

6. It is material to note that respondents had also raised an objection on account of the petitioner being a subsequent purchaser – that he had purchased the subject land after the notification under Section 4 of the Land Acquisition Act 1894 (hereafter *the LA Act*) was published. Although, the court had accepted that the petitioner was a subsequent purchaser, it held that the same would not preclude a challenge on the ground that acquisition had lapsed under Section 24(2) of the 2013 Act.

7. The judgment dated 14.12.2015 was set aside by the Supreme Court by an order dated 09.08.2024 and the matter was remanded to this court in view of the subsequent decision of the Supreme Court in ***Indore Development Authority (LAPSE-5 J.) v. Manoharlal:(2020) 8 SCC 129.***

8. The subject land included the lands that were covered under a notification dated 26.09.1966 issued under Section 4 of the Land Acquisition Act, 1984 (hereafter the *LA Act*). In terms of the said notification, certain lands situated in the Revenue Estate of village Pipalthala, Delhi were acquired for the purpose of planned development of Delhi. The notification under Section 4 of the LA Act was followed by a declaration under Section 6 of the LA Act and an award under Section 11 of the LA Act [being Award No.102-A/72-73] was pronounced on 23.03.1977.



9. Admittedly, the petitioner had acquired the subject land after the award was rendered. Paragraph 3 of the aforesaid writ petition, which sets out the manner in which the petitioner claims to have acquired title to the subject land is set out below:

“3. That the predecessors in interest of the petitioner, Sh. Ram Nath Garg, Amar Singh Garg, Raj Nath Garg sons of Late Sh. Brij Nath, who were the owners / bhoomidars of land of Khasra No. 111/2 (5-2), Khewat No.71 of Village Pipalthala, Delhi executed a G.P.A. dated 26.02.1979 duly attested by a Notary in favour of (1) Sh. Khajan Chand S/o Sh. Khubi Ram (2) Sh. Jage Ram S/o. Sh. Maha Singh, (3) Ved Chand and (4) Sh. Surat Singh, sons of Sh. Chajju Ram who further gave general attorney to Sh. Ishwar Singh S/o Narpat and Jaswant S/o Bundu vide registered GPA dated 21.03.1987 who further gave attorney to Dr. Sat Parkash S/o Sh. Chiranji Lal vide GPA dated 29.08.1988 who further gave attorney to Smt. Prakash Wati W/o Raghu Nath and Anand Sarup S/o Radhey Shyam vide GPA dated 23.08.1990 who further GPA to Sh. Trilok Chand son of Late Shri Nand Lal vide registered GPA dated 24.08.1990 who further executed the registered GPA of 950 sq. yds. dated 24.08.1990 who executed the four sale deeds dated 24.03.1992 and 03.04.1992 of 225 sq. yds. each total measuring land of 900 sq. yds. Smt. Sushma Gupta has vide, Agreement to Sell, Will, Receipt for consideration on 17.05.1995, 19.04.1995 executed the documents in favour of the petitioner's father Sh. Suraj Bhan and the GPA was given to the petitioner. The physical possession was handed over to the petitioner. The copies of the sale deeds and the GPA, agreement to sell, will, receipt etc. of the sale transactions in favour of the petitioner are enclosed as **ANNEXURE- P-2 (colly).**”

10. The question whether a subsequent purchaser who has acquired the land after issuance of notification under Section 4 of the LA Act can challenge the acquisition that has lapsed under Section 24(2) of the 2013 Act is no longer *res integra*. The said issue is covered by the decision of the Supreme Court in ***Shiv Kumar & Anr. v. Union of India & Ors.: (2019) 10***



SCC 229.

11. Thus, the judgment dated 14.12.2015 of this court holding that the petitioner could maintain the present petition does not hold good in view of the subsequent decisions rendered by the Supreme Court.

12. In the present case, the respondent no.2 Delhi Development Authority (DDA) has also filed a counter affidavit enclosing therewith the possession proceedings which indicates that possession of the subject land was taken over on 08.02.1978.

13. In *Indore Development Authority (LAPSE-5 J.) v. Manoharlal (supra)*, the Supreme Court had clarified that recording of memorandum of taking over of possession is sufficient to take over possession of the acquired land. Thus, the fact that the petitioner claims to be in physical possession of the subject land does not mean that the possession of the land was not taken over.

14. It is also apparent from the above that both the conditions are required to be satisfied cumulatively under Section 24(2) of the 2013 Act; that is, (i) possession of the land has not been taken over; and, (ii) compensation of the land has not been paid.

15. In view of the above, the acquisition of the subject land cannot be declared as lapsed under Section 24(2) of the 2013 Act.

16. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

FEBRUARY 28, 2025

‘gsr’

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