

(2017) 11 DEL CK 0099

In the Delhi High Court

Case No : Civil Writ Petition No. 2906 Of 2016

Chatar Singh And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 29-11-2017

Acts Referred:

Constitution Of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 6
Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 24(2)

Citation : (2017) 11 DEL CK 0099

Hon'ble Judges : G.S.Sistani, J;V.Kameswar Rao, J

Bench : Division Bench

Advocate : Arun Kumar Kaushik, Sanjay Kumar Pathak, Sunil Kumar Jha, Kushal Raj Tater, Sanjeev Sabharwal

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

1. The petitioners have filed the present writ petition under Article 226 of the Constitution of India seeking a declaration that the entire acquisition

proceedings with respect to 9 Bigha 03 biswas of land to the extent of their respective joint share i.e. 1/3 share, comprised in Khasra Nos. 41/1(05-

10), 43(03-03), 44/1(0-10), situated in the revenue estate of village Behlolpur, Tehsil Defence Colony, District South-East, New Delhi as having lapsed

as the compensation pertaining to the land in question has not been paid.

2. Learned counsel for the petitioners relies on the averments made in the counter-affidavit filed by the LAC to show that the compensation has not

been paid and no details are mentioned regarding payment in the Naksha Mutzamin, petitioners also prays for compensation as per the New Act for

the reason that physical possession of the land has been taken and the land has been put to use by the DDA.

3. Learned counsel for the LAC also relies on para 8 of the counter-affidavit in support of his submission that possession of the land has been taken

and it is submitted that it is unclear as to whether the compensation has been paid or not.

4. We have heard learned counsel for the parties.

5. It is not in dispute that a notification under Section 4 of the Land Acquisition Act was issued on 13th November, 1959. Section

6 notification was issued on 8th December, 1966 and an Award was made on 20th October, 1982 being Award No. 44/1982-83. It is also not in

dispute that the possession of the subject land has been taken.

6. Para 8 of the counter-affidavit filed by the LAC reads as under:

â??8. That as regards possession and compensation it is humbly submitted that as per possession proceeding report possession of subject

land comprised in Khasra No. 41/1(5-10), 43(3-03) and 44/1 (00-10) was taken on 29.4.1985. So far as compensation amount is

concerned, it is humbly submitted that in the Naksha Muntzmin compensation details are not mentioned. It is not mentioned whether

compensation was paid or not. It is further submitted that Statement â??Aâ? is not available in LA Branch and efforts are being made to

trace it. As per Naksha Mutzmin Owner at (1) Shumar No. 56, Dalip Singh, S/o, Gajan, Share 1/3. (2) Shumar No. 57, Ghanshyam s/o

Jhangra, Share 1/3. (3) Shumar No. 58, Bhagwanta s/o Bhura, share 1/9, (4) Shumar No. 59, Ram Chander s/o Bhure, Share 1/9, (5)

Shumar No. 60, Bhagwana s/o Bhura, Share 1/9 in Khasra No. 43 (03-03), 44/1 (00-10), 41/1 (05-10).â??

7. Reading of the para 8 of the counter-affidavit would show that the details of compensation regarding the petitioners are not mentioned in the

Naksha Mutzamin. As per LAC statement â??Aâ?? is also not available in the land acquisition branch.

8. Taking into consideration that the Naksha Mutzamin does not show the compensation has been paid to the petitioners, however possession of the

land has been taken and put to use by the DDA, the petitioners are entitled to compensation under Section 24 (2) of the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The case of the petitioners would be covered by the decision

rendered by the Supreme Court of India in the case of Pune Municipal Corporation & Anr. V. Harak Chand Misiri Mal Solanki & Ors. (2014) 3 SCC

183. While the declaration is issued that the acquisition proceedings stands lapsed, however, as prayed by the petitioners, the petitioners would only be entitled to compensation as per the Act of 2013.

9. Accordingly, the writ petition is disposed of.