

(2017) 12 DEL CK 0418

In the Delhi High Court

Case No : Civil Writ Petition No. 201 Of 2016

Harkirat Singh

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 19-12-2017

Acts Referred:

Constitution Of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 4, 6, 11, 18, 31, 31(1), 31(2), 32, 33, 34

Right to Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 24(2)

Citation : (2017) 12 DEL CK 0418

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

Bench : Division Bench

Advocate : Richa Oberoi, Prateek Kohli, Ankit Banati, Bhagwan Swarup Shukla, Kamaldeep, Aastha Tyagi, Sanjeev Sabharwal, Hem Kumar, Simmee Kumari

Final Decision : Disposed Of

Judgement

Sl. No.,Name,Award No.,Amount,Remarks

1.,Harkishan Singh,15/87-88,303276.50,Sent to RD

2.,Smt. Tej Kaur,15/87-88,,

Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount available to,,,,

the interested person to be dealt with as provided in Sections 32 and 33.,,,,

18. 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation",,,,

are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the",,,,

manner so provided. It is settled proposition of law (classic statement of Lord

Roche in Nazir Ahmad[1]) that where a power is given to do a,,,,
certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.",,,,

19. Now, this is admitted position that award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation",,,,,
and since they did not receive the compensation, the amount (Rs.27 crores) was deposited in the government treasury. Can it be said that",,,,,
deposit of the amount of compensation in the government treasury is equivalent to the amount of compensation paid to the,,,,
landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in Agnelo Santimano Fernandes [2],",,,,,
relying upon the earlier decision in Prem Nath Kapur [3], has held that the deposit of the amount of the compensation in the stateâ??s",,,,,
revenue account is of no avail and the liability of the state to pay interest subsists till the amount has not been deposited in court.,,,,,

20. From the above, it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more",,,,,
than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid,,,,
to the landowners/persons interested nor deposited in the court. The deposit of compensation amount in the government treasury is of no,,,,
avail and cannot be held to be equivalent to compensation paid to the landowners/persons interested. We have, therefore, no hesitation in",,,,,
holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act.,,,,,

6. We are of the considered view that the necessary ingredients for the application of Section 24(2) of the New Act as has been interpreted by the,,,,
Supreme Court of India and this Court in the following cases stand satisfied:,,,,

(1) Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183;" ,,,,

(2) Union of India and Ors v. Sshiv Raj and Ors., reported at (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, W.P.(C).2294/2014 decided on

12.09.2014 by this Court; and" ,,,,

(5) Giri Chhabra v. Lt. Governor of Delhi and Ors; W.P.(C).2759/2014 decided on 12.09.2014 by this Court.,,,,

7. Having regard to the submissions made and the counter-affidavit placed on record, the petitioner is entitled to a declaration that the acquisition" ,,,,

proceeding with respect to the share of the petitioner as detailed in Para 1 of the judgment stand lapsed. It is so declared.,,,,

Accordingly, the writ petition is disposed of." ,,,,

CM. No. 841/2016.,,,,

In view of the order passed in the writ petition, the application stands disposed of." ,,,,