

(2018) 02 DEL CK 0402

In the Delhi High Court

Case No : Civil Writ Petition No. 6438 Of 2016

Rita Marwah

APPELLANT

Vs

Lt. Governor & Ors

RESPONDENT

Date of Decision : 15-02-2018

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 24(2)
Land Acquisition Act, 1894 — Section 4, 6, 11, 17(i)

Citation : (2018) 02 DEL CK 0402

Hon'ble Judges : G.S.Sistani, J; Sangita Dhingra Sehgal, J

Bench : Division Bench

Advocate : Anupam Singh, Akshay RInge, Yeeshu Jain, Jyoti Tyagi, Dhanesh Relan, Akshita Manocha, Komal Sorout, Gauri Chaturvedi

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

1. Petitioner seeks a declaration that the acquisition proceedings pertaining to land of the petitioner comprised in Khasra No. 759, 764, 765, 767 total

measuring 12 Bighas situated in the revenue estate of Village Malikpur Kohi @ Rang Puri, Delhi (hereinafter referred to as "Subject Land"),

stands lapsed in view of the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Re-settlement Act, 2013 (hereinafter referred to as "2013 Act").

2. It is the case of the petitioner that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was

issued on 27.06.1996 followed by a notification under Section 6 of the Act was issued on 24.06.1997. An award bearing No. 7/98-99/SW was

pronounced on 22.06.1999 under Section 11 of the Act. It is also the case of the petitioner that neither the possession of the subject land has been

taken over nor the compensation has been tendered to the petitioner.

3. Counter affidavit has been handed over by learned counsel for LAC in Court today. The same is taken on record.

4. Learned counsel for LAC has placed reliance on para 4 of the counter affidavit as per which physical possession of the subject land was taken on

31.12.2013 (one day prior to coming into force of 2013 Act), however, the compensation could not be tendered as the same was not received from the

requisition agency i.e. Delhi Development Authority (in short 'DDA'). Para 4 of the counter affidavit reads as under :

'That it is submitted that the lands of Village Malik Pur Kohi @ Rangpuri were notified vide Notification under Section 4 of the Land Acquisition

Act, 1894 dated 27.6.1996 which was followed by the Notification under section 6 of the Act dated 24.6.1997. The award was also passed vide

Award No. 07/98-99 dated 22.6.1999 and the actual vacant physical possession of the subject land falling in khasra number which are subject matter

of the present writ petition was taken on 31.12.2013 the spot and handed over to the requisition agency by preparing proper possession proceedings on

the spot. The compensation however could not be paid as not received from requisition agency i.e. DDA'.

5. Counter affidavit has also been filed by DDA. Learned counsel for DDA has drawn the attention of the Court to para 5 of the counter affidavit as

per which possession has been taken over and compensation for the entire village has been remitted to LAC. Para 5 of the counter affidavit reads as

under :

'Petitioner has claimed to be owner of Khasra No.759, 764, 765 and 767, total admeasuring 12 bighas of Village Malikpur Kohi alias Rangpuri. As

per Land Record of DDA land bearing Khasra No.759(4-16), 764(4-02), 765(4-02) and 767(6-14) of Village Malikpur Kohi @ Rangpuri, stands duly

notified under Sections 4, 6 & 17(i) of the Land Acquisition Act, vide Notification No.F9(12)95/L&B/LA/9741 dated 27.06.1996 and Declaration U/S

6 of the Land Acquisition Act, vide Declaration Notification No. F9(12)95/L&B/LA/6254 dated 24.06.1997 for public purpose for Planned

Development of Delhi, under the provisions of the Land Acquisition Act. After

Notifications land has duly, validly and legally been acquired under

Award No. 7/98-99/SW under Section 11 of the Land Acquisition Act. Physical possession of land comprised in the aforesaid Khasras of Village

Malikpur Kohi @ Rangpuri, acquired vide Award No. 7/98-99/SW has been handed over to the answering Respondent by the Land Acquisition

Collector/Land and Building Department of the Govt. of NCT of Delhi on 28.12.2013, 30.12.2013 and 31.12.2013. Possession of the aforesaid land

handed over by the LAC/L&B Department to the DDA has been handed over by the DDA to A.E./SED-4 on 31.12.2013 itself. Possession

Proceeding dated 31.12.2013 in respect of the land in question of Village Malikpur Kohi @ Rangpuri are annexed hereto and marked as ANNEXURE

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6. We have heard learned counsel for parties.

7. Having regard to the stand taken by LAC in its counter affidavit that the compensation has not been tendered, in our view the petitioner is entitled

to a declaration under Section 24 (2) of 2013 Act as per which in case either compensation has not been tendered or possession is not taken, the

acquisition proceedings would deemed to have been lapsed. It is ordered accordingly that the acquisition proceedings with respect to the subject land

of the petitioner stands lapsed.

8. The writ petitions stands disposed of