
(2018) 03 DEL CK 0108

In the Delhi High Court

Case No : Civil Writ Petition No. 4947 Of 2016 & W.P.(C) 4947 Of 2016

Vijender Solanki And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 15-03-2018

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
Delhi Development Act, 1957 — Section 22(1)

Citation : (2018) 03 DEL CK 0108

Hon'ble Judges : G.S.SISTANI, SANGITA DHINGRA SEHGAL

Bench : Division Bench

Advocate : Mr. D.V. Khatri, Mr. Siddharth Panda, Mr. Arun Birbal, Mr. Sanjay Singh, Mr. Ajay Birbal

Final Decision : Dismissed

Judgement

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

acquisition proceedings initiated in respect of the land of petitioners comprised in Khasra no.72/13/1 measuring 3 bigha 9 biswa, situated in the revenue

estate of village Palam, New Delhi (hereinafter referred to as "the subject land") is deemed to have lapsed in view of Section 24 (2) of the

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the "2013

Act") as the physical possession of the subject land has not been taken.

2.In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was issued on 27.01.1984,

a declaration under Section 6 was made on 26.09.1984. Thereafter, an Award

bearing no.157/1986-87 was rendered on 19.09.1986.

3.Learned counsel for the petitioners submits that the petitioners continued to remain in actual physical possession of the land and thus, their case would be covered under the provisions of Section 24(2) of 2013 Act.

4.The stand of the DDA in the counter affidavit so filed is that actual physical possession was taken on 14.10.1986 and the land was placed at the disposal of the DDA vide notification bearing no.F.10(7)80/L&B/ dated 30.10.1986 under Section 22(1) of the Delhi Development Act, 1957.

5.As per the counter affidavit filed by the LAC, not only physical possession of the subject land has been taken, but the compensation stands paid.

Reliance is placed on the copy of the Execution Petition filed by the petitioners wherein it has been admitted that possession has been taken. Mr.

Panda, learned counsel for the LAC contends while relying on the Execution Petition placed on record, more particularly, column 10 wherein the

petitioners had prayed that either the warrants of attachment be issued or the petitioners be put into possession of the acquired land. Mr. Panda

submits that in view of the stand taken by the petitioners, no relief can be granted to the petitioners and the petitioners are estopped from taking the

plea that the petitioners are in actual physical possession of the land. He submits that the DDA is in actual physical possession of the land and the

status of the petitioners would be that of a trespasser and thus, no right would accrue in favour of the petitioners.

6.We have heard the learned counsel for the parties and considered their rival submissions.

7.In this case, admittedly not only the compensation but even the enhanced compensation stands paid to the petitioners. The only ground urged before

this Court is that the petitioners are in actual physical possession of the land and thus, the petitioners would be covered under the provisions of Section

24(2) of the 2013 Act. We are unable to accept this contention of the learned counsel for the petitioners for the reason that there is an admission on

the part of the petitioners in the Execution Petition filed by the petitioners that in case the compensation is not paid, they should be put back into the

possession. In effect, the petitioners have admitted that physical possession has been taken by the respondents. Only in the eventuality of

compensation not having been tendered or the physical possession not having

been taken, the petitioners can gain benefit of Section 24(2) of the 2013

Act. In view of the admissions so made, the petitioners, in our view, would not be entitled to the benefit of Section 24(2) of the 2013 Act.

8.The writ petition is resultantly dismissed.