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

Date of Judgment: 19th March, 2018

+ **W.P.(C) 4943/2015 & CM No. 8939/2015**

SPRINGDALES EDUCATION SOCIETY Petitioner

Through: Mr. Anil K. Kher, Senior Advocate
with Mr. Kapil Kher and Ms. Namita
Sharma, Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Vikram Jetley, CGSC for
respondent no.1/ UOI.

Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.

Mr. Dhanesh Relan and
Ms. Kajri Gupta and
Ms.Mrinalini Sharma, Advocates for
DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

1. This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to the land of the petitioner forming part of Khasra Nos. 1817 (4-16), 1818 (2 – 14), 1819 (4-6), 1820 (1-2), 1821 (4-16), 1822 (3-18), 1823 (2-1), 1832 (3-18), 1835 (4-16) and 1836 (4-16), totally measuring 37 Bighas

3 Biswas, situated in the revenue estate of Village Chattarpur, Delhi (hereinafter referred as the 'subject land') is deemed to have lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act'), as neither the physical possession of the subject land has been taken nor the compensation has been tendered.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter as the 'Old Act') was issued on 25.11.1980 and Section 6 declaration was made on the 07.06.1985. Thereafter an Award bearing No. 15/87-88 was passed by the Land Acquisition Collector on 05.06.1987. It is the case of the petitioner that neither the physical possession of the subject land has been taken nor compensation has been tendered to the petitioner.
3. Mr. Anil K. Kher, learned senior advocate for the petitioner submits that the petitioner is a society registered in the name of Patel Education Society, in May 1956, under the Societies Registration Act, 1860. The name of the society was subsequently changed in the year 1999 to Springdales Education Society. He also submits that the petitioner society is a charitable and educational society formed with the objective to propagate education. Mr. Kher further submits that as a part of imparting education in agriculture, to make the students aware about the rural life, in order to make them realize their

obligations towards the residents of the rural areas and to bridge the gap between the rural and urban people, the petitioner has set up an Experimental Work Experience Farm for its students. He also submits that the land which is being used as an Experimental Work Experience Farm, was purchased for the benefit of the students.

4. Mr. Kher further submits that the petitioner society purchased the subject land, measuring 37 Bighas 3 Biswas, situated in village Chattarpur, during the years 1965 to 1972, by means of six sale deeds as detailed below, copies of which have been placed on record:-

S. No.	Sale Deed Dated	Khasra No.	Area (Bigha-Biswas)
1.	09 th July, 1970	1818	2 – 14
2.	09 th July, 1970	1819 1836	4 – 06 4 – 16
3.	22 nd April, 1974	1820 1822 1823	1 - 02 3 – 18 2 – 01
4.	13 th April, 1974	1835	4 – 16
5.	29 th April, 1975	1832	3 – 18
6.	09 th August, 1978	1817 1821	4 – 16 4 – 16
	Total:		37 Bigha-03 Biswa or Approx. 7 74 acres.

5. Mr. Anil K. Kher, learned senior advocate for the petitioner submits that since the physical possession of the land has not been taken, and the compensation in respect thereof has not

been tendered, the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act. Learned Counsel has also handed over the copy of Ghirdwari in Court to show that initially Patel Education Society was in cultivating possession. Copy of Jama bandi has also been handed over in Court.

6. Mr. Jain, learned counsel for LAC submits that the possession of the subject land could not be taken on account of stay granted by this Court. However, as per Statement 'A', the compensation was not paid to the petitioner and the same was sent to the Court of ADJ on 23.12.2013 by filing of CM (main). Relevant portion of the counter affidavit filed by LAC reads as under:-

“8. That in the present case the Hon'ble High Court of Delhi in CWP No. 955/86 had granted the stay against dispossession hence the possession of the land in question was not taken, however, as per the statement 'A' the status of payment of compensation is as under:-

Name	Award No.	Amount	Remarks
Veena Jain	15/87-88	354409.80	Sent to ADJ on 27/12/2013 vide ch. No. 456956
Dev Raj Chopra	15/87-88	306802.62	
Patil Education Society	15/87-88	420590.63	
Chaman Lal	15/87-88	557181.59	

7. Mr. Anil K. Kher, learned senior advocate for the petitioner submits that the deposit of amount in the Court of ADJ without tendering the same to the petitioner at the first instance would not discharge the respondent of its obligation to tender the compensation to the petitioner. Mr. Kher, further submits that there is no material on record to show that at any point of time there was any dispute between the recorded owners which would force the LAC to invoke Section 30 and 31 of the Land Acquisition Act, 1894 and deposit the amount in the Court of ADJ. He also submits that nothing prevented the respondents from either taking physical possession or tendering compensation to the petitioner after issuance of notification under Section 4 and declaration under Section 6 of the 2013 Act.
8. On the other hand, Mr. Jain, learned counsel for LAC submits that the petitioner did not come forward to collect the compensation deposited in the Court of ADJ on 27.12.2013 (four days before the 2013 Act came into force).
9. We have heard learned counsel for the parties.
10. In the case of, ***Govt. of NCT of Delhi Vs. Manav Dharma Trust and another*** reported in ***2017 (6) SCC 751***, it has been held in Para 28 as under:-

“28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of

the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi.”

11. In our view the objection with regard to the ownership is without any force as copies of the sale deeds have been placed on record to show the ownership. Additionally, copies of the Khasra Girdawaries and Jama Bandis have also been produced in Court.
12. In view of the observations made above we are of the considered opinion that the petitioner would fall within the definition of the interested person and is thus entitled to the relief claimed.
13. As far as deposit of compensation amount in the Court of ADJ is concerned, the counter affidavit filed by LAC is completely silent as to what prompted the LAC to deposit this amount in the Court of ADJ four days before the 2013 Act was notified. Also there is no material on record to show that this amount was ever tendered to the petitioner and in turn declined by them.
14. Admittedly, in this case the compensation was not tendered to the petitioner. Simply by filing a C.M.(M) and thereafter depositing the amount in the court of Additional District Judge (ADJ) would not amount to valid tender. An identical question had come up for consideration in the case of **Gyanender Singh**

& Ors. vs. Union of India & Ors. W.P.(C) 1393/2014 dated 23.09.2014. The relevant paragraphs 2 and 4 read as under:

“2. The learned counsel for the respondents contend that possession of the subject lands were taken on 05.07.2013 and 17.07.2013 and this fact was informed to this court in W.P.(C) No. 7057/2005 (Court On Its Own Motion). Insofar as compensation is concerned, it was contended on behalf of the respondents that the amount of compensation was deposited in this court in CM Main Nos. 1403/2013 and 1411/2013 on 30.12.2013. It was contended that as the District Courts were closed for the vacation, the same could not be deposited there and, therefore, the cheques representing the amount of compensation were deposited in this court in the above CM Main Nos. 1403/2013 and 1411/2013. Therefore, according to the respondents, the compensation had been paid to the petitioners prior to the commencement of the 2013 Act. Consequently, it was submitted that the acquisition had been completed under the Land Acquisition Act, 1894 as possession had been taken and compensation had also been paid.

4. We are informed that after the passing of the said order dated 30.12.2013, the cheques have been sent to the concerned Additional District Judges as directed by the learned Vacation Judge on 30.12.2013. It is pertinent to note that in paragraph 6 of the said order dated 30.12.2013 itself, the learned Vacation Judge took care in noting that while the petitions were disposed of, they were without prejudice of the rights and contentions of the land owners. The learned Judge also noted that the cheques tendered in the above mentioned CM Main Nos. 1403/2013 and 1411/2013 and other similar petitions would be treated as a tender to the court of the learned Additional District Judge, Delhi as on 30.12.2013.”

15. In our view, the present case is fully covered by the decision rendered in the case of **Gyanender Singh** (supra) and we see no

reason to differ with the view taken in the aforesaid matter. Nothing has been produced before us to show that there was an inter se dispute and the respondents were prevented from tendering the amount to the original owners. There is nothing on record to show that the amount was tendered and refused.

16. Taking into consideration the submissions made and the categorical assertion made in the counter affidavit filed by LAC that the compensation has not been paid and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have lapsed.
17. The writ petition stands disposed of.

CM APPL. No. 8936/2015(stay)

18. The application stands disposed of in view of the order passed in the writ petition.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

MARCH 19, 2018 //rd