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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Judgement: 15th March, 2018

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W.P.(C) 73/2017 & C.M.No.439/2017

DAMINI WADHWA

.....Petitioner

Through: Mr. N.S. Vasisht and Ms. Jyoti Kataria
Bajaj, Advocates.

Versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms. Aastha Tyagi, Mr. Dinesh Chander
Trehan Advocates for L&B/LAC.
Mr. Arjun Pant, Adv. For DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S. SISTANI, J. (Oral)

1. Pleadings are complete. Accordingly, the present writ petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to Property No.92/101/114 comprised in Khasra No. 627, measuring 1553 sq.yds., situated in the revenue estate of village Maidan Garhi, New Delhi (hereinafter referred as the 'subject land') stand 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 '2013 Act') as neither the actual physical possession of the subject land has been taken nor compensation in respect thereof has been paid.

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3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 25.11.1980 and a declaration under Section 6 was made on 18.06.1985. Thereafter, an award bearing no.23/87-88 was passed by the Land Acquisition Collector on 17.06.1987.
4. Mr. N.S. Vasisht, learned counsel 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 paid, the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act. Learned counsel further relies on the decision rendered by the Supreme Court in *Govt. of NCT of Delhi Vs. Manav Dharma Trust and another*, reported in 2017 (6) SCC 751, in response to the stand taken by LAC in the counter affidavit that the petitioner has no *locus standi* to file the present petition as he is not the recorded owner. Reliance is placed on para 28 of this judgment which reads 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."

5. On the other hand, Ms. Aastha Tyagi learned counsel for the LAC submits that physical possession of the subject land has been taken and compensation has been tendered to the recorded owners. She further submits that it is not open for the petitioner to dispute the possession for the reason that the petitioner has purchased the subject land from Mrs. Manisha Singh vide Agreement to Sell dated 06.09.2006 i.e. post passing of the Award, and the possession was taken from the recorded owners to whom compensation was also paid. Relevant Para(s) of the counter affidavit filed by LAC reads as under:

"8. That in the present case, the possession of the land in question was take over and handed over to the beneficiary department on 16.07.1987 and as per Statement "A" compensation was paid to the recorded owners as under:-

SI No.	Name	Amount	Remarks
317	Mansha	889420.79	Paid vide Ch. No.82537 dt. 14.09.87
318	Amar Singh	916988.71	Paid as below:
318/1	Dharamveer	222355.19	Paid dt.30.09.87
318/2	Jasgeet	222355.19	Paid dt.30.09.87
318/3	Mahaveer Singh	222355.19	Paid dt.30.09.87
318/4	Viay Singh	222355.19	Paid dt.30.09.87

9. It is submitted that the writ petition has been filed at the behest of the subsequent purchaser who having full knowledge about the status of the land in question got the land transferred after the same was notified for acquisition under the provision of the Land Acquisition Act,1894. The transfer was done in

violation of Section 4 Delhi Lands (Restrictions on Transfer) Act, 1972, without first obtaining a written permission of the competent authority under the Delhi Lands (Restrictions on Transfer) Act, 1972."

6. Counter affidavit has also been filed by DDA, relevant portion of which reads as under:

"The physical possession of the land was handed over to the DDA by the LAC/L&B Department, Govt. of NCT of Delhi on 16.07.1987. Copy of the possession proceedings is annexed as ANNEXURE-R3/1."

7. We have heard learned counsel for the parties.
8. The learned counsel for the petitioner has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioner. Counsel has also submitted that the objections of the LAC regarding *locus standi* of the petitioner is misplaced in view of the observations made by the Supreme Court in *Manav Dharma Trust (supra)* where the rights of the subsequent purchaser have been recognised.
9. Reading of the counter affidavit filed by LAC makes it clear that compensation was paid to the recorded owners on various dates. The names of the recorded owners, cheque numbers and their respective dates have been provided. Accordingly, the submissions made by the counsel for the petitioner that the compensation has not been tendered to the petitioner is without any force. As far as possession of the subject land is concerned, the counter affidavit filed by LAC and DDA makes it clear that the possession of the subject land has been taken on 16.07.1987. In our view it is not open for the petitioner who claims to be a subsequent purchaser, to

raise the plea that the possession proceedings are not in accordance with law for the reason that the persons who received the compensation, at no point complained that physical possession has not been taken. This objection of the petitioner regarding possession is highly belated and misplaced.

10. We are of the considered view that the judgement of the Supreme Court in the case of *Manav Dharma Trust (supra)* does not apply to the facts of the present case for the reason that in this case the physical possession has been taken on 16.07.1987 and compensation has been paid to the recorded owner in the year 1987 on various dates as detailed in para 5 above. In case the physical possession had been taken and compensation having not been paid at all, in those circumstances, the decision rendered in the case of *Manav Dharma Trust (supra)* would come to the aid and rescue of the petitioner.
11. Having regard to the submissions made and the categorical assertion made in the counter affidavit filed by LAC as well by DDA, that the possession of the subject land has been taken over on 16.07.1987 and the compensation has been paid to the recorded owners, we are of the considered view that the relief so claimed and pressed before this Court by the petitioner cannot be granted.
12. Hence we are of the view that the present petition lacks merit and is liable to be dismissed.

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C.M.No.439/2017 (Stay)

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

G.S.SISTANI, J. —

SANGITA DHINGRA SEHGAL, J.

MARCH 15, 2018/gr