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

% Judgment delivered on: 14.12.2015

\+ **W.P.(C) 177/2015 and CM No. 289/2015**

RAKESH BANSAL .... Petitioner

versus

UNION OF INDIA & ORS ..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Raghuvinder Varma
For the Respondent No.1 : Mr Dev P. Bhardwaj
For the Respondent No.2 : Ms Mrinalini Sen Gupta
For the Respondents/L&B/LAC : Mr Yeeshu Jain and Ms Jyoti Tyagi

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The petitioner seeks the benefit 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') which came into effect on 01.01.2014. A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') in respect of which Award No. 102A/72-73 dated 23.03.1977 was made, *inter alia*, in respect

of the petitioner's land comprised in Khasra No. 111/2 measuring 4 bighas 4 biswas to the extent of 900 sq. yards in all in village Pipalthala shall be deemed to have lapsed.

2. Though the respondents claimed that possession of the said land was taken on 08.08.1998, the petitioner disputes this and maintains that physical possession has not been taken. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not been paid. The said 900 sq. yards of land, however, has not been identified out of the above khasra number.

3. The learned counsel appearing on behalf of the respondents further submitted that the writ petition ought to be thrown out on the ground that it has been filed on behalf of a subsequent purchaser. The learned counsel submitted that the petitioner had purchased the land after the issuance of the notifications under section 4 and 6 of the 1894 Act. He also submitted that it is settled law that a subsequent purchaser has no right to challenge the acquisition proceeding and has only a limited right to receive compensation. He placed reliance on the Supreme Court decision in the case of ***KN Aswathnarayana Setty (D) Tr. LRs.& Ors. Vs. State of Karnataka & Ors.*** **AIR 2014 SC 279**. According to the

learned counsel, the Supreme Court held that a person who purchases land subsequent to the issuance of a notification for acquisition is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever. He contended that the sale deed executed in favour of the subsequent purchaser does not confer upon him any title and at the most he could claim compensation on the basis of the vendors title. A reference was also made to the Supreme Court decision: ***Meera Sahni v. Lieutenant Governor of Delhi and Ors.:*** **(2008) 9 SCC 177**.

4. While it is true that, in the context of 1894 Act, the Supreme Court has held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to compensation, we agree with the learned counsel for the pettioner that the present petition as it now stands is not a challenge to the acquisition proceedings but a petition seeking declaration of rights which had accrued to the petitioner by virtue of the deeming provision of section 24(2) of 2013 Act. Once the acquisition has lapsed because of the triggering of the deeming provision of section 24(2) of 2013 Act, the benefit of the same cannot be denied to the petitioner on the ground that he is a subsequent purchaser.

5. Without going into the controversy of physical possession, this much is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid. The necessary ingredients for the application of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following cases stand satisfied:-

(1) ***Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors*: (2014) 3 SCC 183**;

(2) ***Union of India and Ors v. Shiv Raj and Ors*: (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*: *WP(C) 2294/2014*** decided on 12.09.2014 by this Court; and

(5) ***Girish Chhabra v. Lt. Governor of Delhi and Ors*: *WP(C) 2759/2014*** decided on 12.09.2014 by this Court.

6. As a result, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject land are deemed to have lapsed. It is so declared.

7. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

DECEMBER 14, 2015
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HIGH COURT OF DELHI
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