

\$~12

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

% Judgment delivered on: 04.08.2015

+ **W.P.(C) 164/2015 & CM 270/2015**

SHRI SHER SINGH & ORS Petitioners

versus

UNION OF INDIA & ORS Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Raghuvinder Varma
For the Respondent LAC/L&B : Mr Yeeshu Jain with Ms Jyoti Tyagi
For the Respondent/DDA : Mr Sanjeev Sabharwal.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Mr Yeeshu Jain, the learned counsel for respondent Nos.4 & 5 has handed over the counter-affidavit. The same is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder-affidavit as all the necessary averments are contained in the writ petition.

2. The petitioners seek 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.22/2005-06 dated 02.01.2006 was made, *inter alia*, in respect of the petitioners' land comprised in khasra Nos. 54//18/2 (1-16), 19 (4-16), 20 (4-12), 21 (4-12), 22 (4-16), 23 (4-16) measuring 25 bighas 8 biswas in all in village Karala, shall be deemed to have lapsed.

3. Though the respondents claim that part possession of the said land was taken on 23.02.2007, the petitioners dispute this and maintain that physical possession of the entire land is with them. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not been paid.

4. 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.

5. As a result, the petitioners are 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.

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

BADAR DURREZ AHMED, J

AUGUST 04, 2015
‘sn’

SANJEEV SACHDEVA, J