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

+ W.P.(C) 3492/2002

% *Judgment dated 11th September, 2015*

MOHINDER KUMAR JAIN

..... Petitioner

Through

Mr. Prakash Gautam with Mr. Vivek Ojha
and Mr. Sandeep Kumar, Advocates

versus

UOI & ORS.

..... Respondents

Through

Mr. Ajay Digpaul, CGSC for respondent
no.1/UOI.
Mr. Sanjay Kumar Pathak with Mr. Sunil
Kumar Jha, Advocates for respondents
no.2 to 4.
Mr. Udagam Khandelwal, Advocate for
DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM APPL Nos.18794/2015 & 18795/2015

1. For the reasons stated in the applications, the amendments are allowed.
2. Applications stand disposed of.

CM.APPL.5016/2015 & WP(C)3492/2002

3. With the consent of counsel for the parties, present writ petition and application are set down for final hearing and disposal.
4. Present writ petition has been filed by petitioner, *inter alia*, seeking a direction to quash and set aside the Notification No.F.10 (30)/96 L&B/LA/13417 dated 13.12.2000 issued under Section 4 of the Land Acquisition Act, 1894, and the Notification/declaration

No.F.10(30)/96/L&B/LA/14062 dated 7.12.2001 issued under Section 6 of the Land Acquisition Act, 1894, and consequent notification issued under Section 17(1) of the Land Acquisition Act, 1894, dated 21.3.2002 with respect to the land and farm house built thereon comprising of Khasra Nos.40/7/2, 40/8/2 and 40/9/2, situated in the revenue estate of Vilage Bharthal, Tehsil Meharuau, Delhi. A declaration has also been sought thereby declaring that the Notification No.F.10 (30)/96 L&B/LA/13417 dated 13.12.2000 issued under Section 4 of the Land Acquisition Act, 1894, and the Notification/declaration No.F.10(30)/96/L&B/LA/14062 dated 7.12.2001 issued under Section 6 of the Land Acquisition Act, 1894, in respect of petitioner's land and farm houses built thereon comprising of Khasra Nos.40/7/2, 40/8/2 and 40/9/2, situated in the revenue estate of Vilage Bharthal, Tehsil Meharuau, Delhi, suffer from malafide and are issued in abuse and excess of authority and power, apart from being violative of Articles 14 and 300-A of the Constitution of India.

5. By the CM.APPL.5016/2015, the petitioner has prayed that the subsequent legislative enactments be taken into consideration and declare that the acquisition proceedings, subject matter of the present writ petition, are deemed to have lapsed in terms of the deeming provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as the '2013 Act').
6. Learned counsel for the petitioner submits that the present writ petition is fully covered by the decisions rendered by the Supreme Court in the case of **Jagjit Singh & Ors. v. UOI & Ors.**, (W.P.(C).2806/2004) and other connected matters decided on 27.05.2014. Reliance is also placed in the

case of *Swaran Singh Chawla v. UOI & Ors.*, (WP(C) 3494/2002) decided by a Division Bench of this Court.

7. Counsel further submits that during the pendency of the present proceedings Government of India had enacted 2013 Act. The said Act came into effect on 1.1.2014. Section 24 of the 2013 Act reads as under:

“24. Land Acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases.

- (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the land Acquisition Act, 1894 (1 of 1894), -

- (a) Where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

- (b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification of acquisition under

Section 4 of the said land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

8. Learned counsel for the petitioner submits that the said provision of law came for interpretation in the case titled as ***Pune Municipal Corporation and Another v. Harakchand Misirimal Solanki and Others***, reported at (2014) 3 SCC 183, as well as in subsequent judgments titled as ***Union of India and Others v. Shiv Raj and Others***, reported at (2014) 6 SCC 564, and case titled as ***Sree Balaji Nagar Residential Association V. State of Tamil Nadu and Others*** (Civil Appeal No.8700/2013 decided on 10.09.2014)
9. It has further been stated that the ratio of the aforesaid three judgments of the Supreme Court finally settled the scope and ambit of Section 24(2) of the 2013 Act. As per the said judgments, Section 24(2) stipulates that where an award has been made five years or more prior to the commencement of the 2013 Act and where either of the two contingencies is satisfied, i.e. (i) physical possession of the land has not been taken, or (ii) compensation has not been paid, the acquisition proceedings shall be deemed to have lapsed. Counsel contends that it is also clear that while computing the period, Section 24(2) of the 2013 Act does not exclude any period during which the land acquisition proceedings might have remained stayed on account of a stay order or an injunction granted by any Court. Moreover, it is evident from a decision rendered by the Supreme Court of India in the case of ***Pune Municipal Corporation*** (supra) wherein it has been held that for the purposes of Section 24(2) the compensation shall be regarded as “paid” only if the compensation has been offered to the person interested and such compensation has been deposited in the Court where a reference under Section 18 can be made on

the happening of any of the contingencies contemplated under Section 24(2) of the Land Acquisition Act, 1894. Counsel contends that this petition is fully covered in fact and law and, thus, prays that the same may be allowed.

10. Learned counsel for the LAC does not dispute the fact that the present petition has stands duly covered by the aforesaid decisions rendered by the Supreme Court, however, he submits that a Special Leave Petition is pending in the Supreme Court of India.
11. We have heard counsel for the parties and considered their rival submissions. In the present case, acquisition proceedings are more than five years old i.e. pertaining to the year 2000. A stay order was passed on 5.4.2002, however, no compensation has been paid to the petitioner within the meaning of Section 24(2) of the 2013 Act. It is also not in dispute that no compensation was offered to the petitioner as the amount of compensation has not been deposited in the Court. Reliance is also placed by learned counsel for the petitioner on a communication dated 17.7.2014, a copy of which has been placed on record.
12. In view of above, the present writ petition and application are allowed. It is declared that the said acquisition proceedings initiated under the 1894 Act in respect of the subject land are lapsed.
13. Accordingly, present petition and application stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 11, 2015

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