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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 18.05.2015

W.P.(C) 2456/2014 & CM Nos.5117/2014 & 20434/2014

M/S MASS ESTATE (P) LTD.

..... Petitioner

versus

LT. GOVERNOR OF DELHI AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms Esha Mazumdar with Mr Setu Niket, Advocates
For the Respondents : Mr Sanjay Kumar Pathak, Mr Yeeshu Jain with Ms Jyoti Tyagi,
Advocates for respondent Nos.1 & 3.
Mr Sanjeev Sabharwal with Mr Hem Kumar, Advocates for
respondent Nos.2/DDA.

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

J U D G M E N T

BADAR DURREZ AHMED, J (ORAL)

1. By way of this writ petition the petitioner is seeking 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. The petitioner,

consequently, seeks a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') and in respect of which Award No.29/2002-03 dated 01.11.2002 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 15/26(0-03), 26/4/1 (0-8), 26/4/2 (1-17), 15/26 (0-3), 15/24/2 (1-0) measuring 3 Bighas 11 Biswas in Village Shahbad Daulatpur shall be deemed to have lapsed.

2. In the petition, it has been claimed that the physical possession of the subject land has not been taken by the land acquiring agency nor has any compensation been paid to the petitioner. This fact is not specifically refuted by the Land Acquisition Collector in the counter affidavit filed by him. The counter affidavit filed on behalf of DDA also indicates that the possession of the land could not be taken because the area was built up. Insofar as the compensation is concerned, there is also no specific denial of the allegations on the part of the petitioner that the compensation has not been paid in respect of the said land. Consequently, it will have to be considered as a case where possession of the subject land has not been taken and compensation has also not been paid in respect thereof. The award was made more than five years prior to the commencement of the 2013 Act. All

the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:-

- (i) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183;
- (ii) **Union of India and Ors v. Shiv Raj and Ors:** (2014) 6 SCC 564;
- (iii) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors:** Civil Appeal No. 8700/2013 decided on 10.09.2014;
- (iv) **Surinder Singh vs. Union of India and Ors.:** W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

3. 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 lands are deemed to have lapsed. It is so declared.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MAY 18, 2015

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