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

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Judgment delivered on: 13.10.2015

+ **W.P.(C) 1704/2015 & CM Nos.3059/2015, 11200/2015**

MAHESH DAYAL & ANR.

.... Petitioners

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr L.B.Rai and Mr A.N.Mahajan, Advocates.

For the Respondents : Mr Rajesh Kumar and Mr Atul Krishna for respondent No.1
Mr Yeeshu Jain with Ms Jyoti Tyagi, Advocates for
L&B/LAC.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. By way of this writ petition, 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.33/86-87 dated 19.09.1986 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra

Nos. 843/3 (2-16) and 843/4 (0-12) measuring 3 bighas 8 biswas in all in village Mahipalpur, shall be deemed to have lapsed.

2. Though the respondents claimed that possession of the said land was taken on 22.09.1986, the petitioners dispute this and maintain 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.

3. 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.

4. 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.

5. We may point out that an application has been filed being CM No.11200/2015 for impleadment in this petition. The applicants claim to be the owners of the land in question. However, we note that the writ petitioners have based their title on a decree in their favour in suit No.386/1961 dated 15.09.1961. The learned counsel for the applicants states that an appeal has been filed against the mutation order which was passed pursuant to the said decree. However, the learned counsel for the writ petitioners contests this statement. Be that as it may, we are not deciding any issue of title in the present proceeding. The writ petitioners are the recorded owners and the declaration that the acquisition proceeding has lapsed, is on the basis thereof.

6. The writ petition is allowed to the aforesaid extent. The pending applications stand disposed of. There shall be no order as to costs.

BADAR DURREZ AHMED, J

OCTOBER 13, 2015
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SANJEEV SACHDEVA, J

