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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 03.11.2015

+ W.P.(C) 1836/2015& CM 3286/2015

BALWAN & ORS

..... Petitioners

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Rajesh Gupta with Mr Harpreet Singh and Mr M.C. Verma
For the Respondent Nos.1 & 2 : Mr Thakur Virender Pratap Singh
For the Respondent No.3 : Ms Mrinalini S. Gupta with Ms Mrinmoi Chatterjee
For the Respondent No.4 & 5 : Mr Yeeshu Jain with 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 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. 25/2005-06 dated 06.06.2006 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 1//16(4-11) measuring 4 bighas and 11 biswas in all in village Kirari Suleman Nagar (*Patti Nithari*) shall be deemed to have lapsed.

2. It is admitted by the respondents that physical possession of 2 bighas out of the above mentioned land could not be taken. As regards the balance 2 bighas 11 biswas, the stand of the respondents is that the physical possession of the same was taken on 13.10.2006. This is disputed by the petitioners, who claim to be in actual physical possession of the entire subject land.

3. In so far as the question of compensation is concerned, the same has not been paid to the petitioners but according to the respondents, the same has been deposited in the treasury. But, that would not amount to payment of compensation to the petitioners.

4. Without going into the controversy with regard to the physical possession in so far as 2 bighas and 11 biswas of land is concerned, 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 to the petitioners, but has only been deposited in the treasury, which does not amount to payment of compensation as interpreted by the Supreme Court in **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183.

5. All 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) **Union of India and Ors v. Shiv Raj and Ors:** (2014) 6 SCC 564;
- (2) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors:** Civil Appeal No. 8700/2013 decided on 10.09.2014;
- (3) **Surender Singh v. Union of India & Others:** WP(C) 2294/2014 decided on 12.09.2014 by this Court; and
- (4) **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 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.

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

NOVEMBER 03, 2015
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