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

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Judgment delivered on: 06.07.2015

+ **W.P.(C) 2198/2015 & CM 3936/2015**

JAI PRAKASH TYAGI AND ORS.

.... Petitioners

versus

LAND ACQUISITION COLLECTOR & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Parvesh Tyagi

For the Respondent Nos. 1 : Mr Sanjay Kumar Pathak with Mr S.K. Jha

For the Respondent DDA : Mr Arush Bhandari with Mr Dhanesh Relan

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Mr Sanjay Pathak has handed over the counter affidavit on behalf of respondent no.1. The same is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit and relies on the averments already made 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. 240/1986-87 dated 21.09.1986 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos. 35/2/2 (6-04), 36/2/2 (4-13) and 40/2/2 (5-01) measuring 15 bighas 18 biswas in all in village Wazirabad, New Delhi, shall be deemed to have lapsed.

3. The petitioners claim that the physical possession of the entire land is with them. However the respondents claim that possession of khasra no. 35/2/2 measuring 6 bighas 04 biswas was taken on 22.09.1997. As regards khasra nos 36/2/2, measuring 4 bighas 13 biswas, possession was taken in respect of 3 bighas of land on 22.09.1997. However, possession of 1 bighas 13 biswas out of that khasra could not be taken. Insofar as khasra no.40/2/2 is concerned, possession has not been taken. Therefore, it is an admitted position that possession in respect of 6 bighas 14 biswas of land has not been taken. With regard to the rest of the subject land, the question with regard to the possession is disputed. Insofar as the issue with regard to the compensation is concerned, it is the case of the petitioners that compensation has neither been offered nor paid to the petitioners. The stand of the respondents is that the ***Naksha Muntzamin***

indicates that there is some dispute, though there is no indication as to whether compensation has been paid or not and further details are not available. Therefore, the learned counsel for the respondents are not in a position to specifically state as to whether the compensation has been paid or not. In these circumstances the averments made by the petitioners would have to be accepted, which means that the compensation 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

JULY 06, 2015
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SANJEEV SACHDEVA, J