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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 06.07.2015

W.P.(C) 2204/2015 & CM 3959/2015

KRISHAN KANT GOYAL

..... Petitioner

versus

GOVT. OF NCT OF DELHI AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr Rajiv Kumar Ghawana
For the Respondent L&B/LAC	: Mr Sidharth Panda
For the Respondent DDA	: Ms Pallavi Shali

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. The learned counsel for the DDA submits that she has filed the counter affidavit today itself. A copy of the same was handed over to us. We have seen the same. The counter affidavit which was filed by her be taken on record by the Registry. Insofar as the respondent nos. 1 & 2 are concerned Mr Panda has handed over the counter affidavit on their behalf

which is taken on record. The learned counsel for the petitioner submits that he shall not be filing any rejoinder affidavit inasmuch as all the necessary averments are contained in the writ petition.

2. 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.50/80-81 dated 18.07.1980 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra No. 71 measuring 240 square yards in village Haiderpur, New Delhi, shall be deemed to have lapsed. We may point out that khasra no. 71 comprised of 1 bigha 9 biswas. Insofar as 1 bigha is concerned, possession thereof was taken by the land acquiring agency and handed over to DDA which is maintaining it as a '*green cover area*'. The possession was taken on 19.07.1980. Insofar as the remaining 9 biswas of land are concerned it is an admitted position that possession thereof was not taken 'due to built-up'. The petitioner states that the present petition pertains to 240 square yards out

of that 9 biswas of land, possession in respect of which was not taken. It may also be pointed out that compensation in respect of 1 bigha of land of which possession was taken was said to have been deposited by the respondents under sections 30/31 of the Land Acquisition Act, 1894 far back in 29.08.1980. However, insofar as the balance 9 biswas of land are concerned, no compensation has admittedly been paid for it.

3. Therefore, it is an admitted position that neither physical possession of the subject lands has been taken by the land acquiring agency, nor has any compensation been paid to the petitioner. 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.

4. 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.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

JULY 06, 2015

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