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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 13.10.2015

W.P.(C) 2469/2015 & CM No.4434/2015

RAMESH KUMAR

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms Richa Oberoi

For the Respondents : Mr Anuj Aggarwal for Union of India.

Mr Rajesh Kumar Das for R-1/Union of India.

Mr Yeeshu Jain and Ms Jyoti Tyagi for L&B/LAC

Mr Dhanesh Relan for 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. The counter-affidavit handed over by Mr Yeeshu Jain, the learned counsel appearing on behalf of the respondent No.2, is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder-affidavit as 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.06/2005-06/DC(N-W) dated 12.07.2005 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 49/2/2 Min (0-08) and 49/9/2 Min (0-12) measuring 1 bigha in all, in village Pehladpur Bangar, shall be deemed to have lapsed.

3. Insofar as khasra No.49/9/2 Min (0-12) is concerned, it is admitted by the respondents that the physical possession of the same could not be taken. As regards the other khasra number, the stand of the respondents is that physical possession of the said land was taken on 31.08.2005. This is disputed by the petitioner, who claims to be in actual physical possession of the entire land.

4. Insofar as the question of compensation is concerned, the same has not been paid to the petitioner. It is, therefore, clear that although physical

possession of part of the land is disputed, compensation in respect of the entire land has not been paid to the petitioner. The award was also made more than five years prior to the commencement of the 2013 Act. As such, all the necessary 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; and**
- (iv) **Surender Singh v. Union of India and Ors.: W.P.(C) 2294/2014 decided 12.09.2014 by this Court.**

5. 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.

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

BADAR DURREZ AHMED, J

OCTOBER 13, 2015/‘sn’

SANJEEV SACHDEVA, J