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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 13.07.2015

W.P.(C) 2498/2015 & CM 4464/2015

SARLA KATARIA

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner

: Ms Richa Oberao

For the Respondent UOI

: Mr Rajesh Kumar with Mr Atul Krishna

For the Respondent L&B

: Mr Siddharth Panda

For the Respondent DDA

: Mr Dhanesh Relan

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 Panda on behalf of respondent no.2 is taken on record. The learned counsel for the petitioner submits that no rejoinder affidavit would be necessary inasmuch as all the 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.6/2005-06 dated 12.07.2005 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 49/14 min measuring 1 bigha in village Pehladpur Bangar, Delhi, shall be deemed to have lapsed.

3. 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; and
- (iv) **Surender Singh v. Union of India and Ors.:** W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

4. We may point out that it was also contended by the learned counsel for the respondents that there was stay granted by the Supreme Court, which was finally vacated on 11.02.2015. In view of this the learned counsel for the respondents sought to place reliance on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015. However, the same would not be available to them in view of the fact that the vested rights cannot be taken away by virtue of the said Ordinance. The rights which had vested in the petitioner on 01.01.2014, on which date the 2013 Act came into operation, could not be taken away by the said Ordinance which was prospective in nature.

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

SANJEEV SACHDEVA, J

JULY 13, 2015
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