

\$~28

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

%

Judgment delivered on: 07.07.2015

+ **W.P.(C) 2491/2015 & CM 4457/2015**

J. C. GUPTA

.... Petitioner

versus

UNION OF INDIA & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Sumit Bansal, Mr Ateev Mathur and
Ms Richa Oberoi

For the Respondent /L&B : Mr Yeeshu Jain with Ms Jyoti Tyagi,

For the Respondent No. 1 : Mr Vivek Goyal

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

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter-affidavit handed over by Mr Yeeshu Jain 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 inasmuch as the averments made in the writ petition would be relied upon.

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 dated 12.07.2005 was made, *inter alia*, in respect of the petitioner’s land comprised in Khasra No. 49/3 min measuring 2 bighas and 16 biswas in all in Village Pehladpur Bangar, Delhi shall be deemed to have lapsed.

3. It is stated by the learned counsel for the respondent that out of above mentioned khasra, possession was taken in respect of 1 bigha and 10 biswas of land leaving 3 bighas and 6 biswas. The learned counsel for the petitioner points out that the 2 bighas and 16 biswas of land which forms the subject matter of this writ petition is out of the balance portion of 3 bighas and 6 biswas, of which, possession was not taken. Therefore, it is an admitted position that physical possession of the subject land has not been taken by the land acquiring agency. It is also an admitted position that compensation has not 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. 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

**JULY 07, 2015
SR**

SANJEEV SACHDEVA, J