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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 13.10.2015

W.P.(C) 2493/2015 & CM No.4459/2015

PAWAN KUMAR GARG

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms Richa Oberoi

For the Respondents : Mr Chiranjiv Kumar 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 No. 49/3 Min (1-10) measuring 1 bigha 10 biswas, in village Pehladpur Bangar, shall be deemed to have lapsed.

3. The learned counsel for the respondents contends that out of the said khasra number, possession was taken of 1 bigha 10 biswas on 31.08.2005.

4. The balance remaining under the said khasra numbers was 3 bighas 6 biswas of which possession was not taken. It is the case of the learned counsel for the petitioner that the land in question in the present petition falls in the said 3 bighas 6 biswas, of which possession was not taken. However, the learned counsel for the Land Acquisition Collector submits that he is not in a position to state that as to whether the subject land falls within the area of which possession was taken or falls in the remaining area of which possession was not taken. Insofar as compensation is concerned, it is an admitted position that the same has not been paid by the respondents to the petitioner.

5. Therefore, even if we consider the position to be that there is a dispute with regard to the physical possession of the land having been taken over, it is clear that the compensation has not been paid and that the award has been made prior to the 2013 Act. All the ingredients necessary for invoking the provisions 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.**

6. As a result, the petitioner is entitled to a declaration that the said acquisition proceedings have lapsed with regard to the subject land. It is so declared.

7. 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