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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 13.04.2015

W.P.(C) 4626/2014 & CM 9201/2014

M. SALIM AND ORS

..... Petitioners

versus

UNION OF INDIA AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr Ateev Mathur with Mr Vaibhav Mirg
For the Respondents UOI	: Mr Arun Bhardwaj with Ms Neha Garg & Mr Rishi Kapoor.
For the Respondents LAC	: Mr Yeeshu Jain with Ms Jyoti Tyagi.
For the Respondents DDA	: Mr Pawan Mathur with Mr Himanshu Gupta.

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. By way of this writ petition the petitioners seek 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 petitioners,

consequently, seek 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.36/1980-81 of 1981 and Award No. 36B/1986-98 (Supplementary) dated 22.09.1986 was made, *inter alia*, in respect of the petitioners' land comprised in khasra nos. 669/27 min. (0-16) and 669/27 min. (3-11) respectively measuring 4 bighas and 7 biswas in all in village Lado Sarai, New Delhi, shall be deemed to have lapsed.

2. According to the learned counsel for the petitioners neither physical possession of the subject lands has been taken by the land acquiring agency, nor has any compensation been paid to the petitioners. Mr Yeeshu Jain appearing on behalf of the LAC states that he is not in a position to either deny or admit this position inasmuch as the records are not available. The learned counsel for the DDA, however, submits that apparently possession of the land was taken on 22.09.1986 however he has nothing to submit with regard to the payment of compensation. The learned counsel for the petitioners drew our attention to an order dated 17.12.2012 passed in W.P.(C) 7851/2012, a copy of which is at page 55 of the paper book, which does indicate that the possession was with the petitioners and the court had directed the respondents to examine his representation under section 48 of

the 1894 Act. It is obvious that section 48 would only apply when possession of land has not been taken. Therefore, it can be safely inferred that the physical possession of the subject land has not been taken by the land acquiring agency and that the compensation has also not been paid to the petitioners. 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.

3. As a result the petitioners are 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.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

APRIL 13, 2015
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