

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

% Judgment delivered on: 03.03.2015

+ W.P.(C) 4994/2014 & CM 9980/2014

SUSHIL KUMAR KASANA & ANR

.... Petitioners

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Lalit Kumar Rawal with Mr Ram Kumar Ranga and
Mr Vishal Thakur

For the Respondent Nos.1-2 : Mr Siddharth Panda

For the Respondent No.3 : Mr Pawan Mathur

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Mr Siddharth Panda, the learned counsel appearing for respondent Nos.1 and 2 has handed over the affidavit on behalf of Land Acquisition Collector (North-East). The same is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder/affidavit inasmuch as all the necessary averments are contained in the writ petition.

2. The learned counsel for the petitioners states that this matter is covered by the decision of this Court in the case of **Girish Chhabra vs. Lt. Governor of Delhi and Ors.**: W.P.(C) 2759/2011 decided on 12.09.2014. He states that although possession of the subject land has been taken, the award under the Land Acquisition Act, 1894 (hereinafter referred to as ‘the 1894 Act’) was made more than five years prior to the commencement 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. In this case Award No.12/1992-93 was made on 19.06.1992. He also states that compensation has not yet been paid to the petitioners. Therefore, the requirements of section 24(2) of the 2013 Act have been fulfilled and the petitioners are entitled to a declaration that the subject acquisition under the 1894 Act has lapsed. The land in question is situated in Village Sadatpur Gujran in Khasra No.194 measuring 1 bigha 6 biswas in all.

3. Admittedly, though physical possession of the subject land has been taken on 18.03.2013 pursuant to the orders passed in WP(C) 7057/2005, compensation has not been paid to the petitioners. The Award is also more than five years prior to the commencement of the 2013 Act. Consequently,

the decision of this Court in *Girish Chhabra (supra)* applies on all fours and the subject acquisition has lapsed.

4. The respondents have also objected on the ground that the petitioners are subsequent purchasers. They placed reliance on the Supreme Court decisions in *KN Aswathnarayana Setty (D) Tr. LRs.& Ors. v. State of Karnataka & Ors.*; AIR 2014 SC 279 and *Meera Sahni v. Lieutenant Governor of Delhi and Ors.*; (2008) 9 SCC 177.

5. There is no doubt that in the context of the 1894 Act the Supreme Court clearly held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to seek compensation. But, the position obtaining at present is different. This is a petition which does not seek to challenge the acquisition proceedings but seeks a declaration of a right which has enured to the benefit of the petitioners by virtue of the operation of Section 24(2) of the 2013 Act. Once the acquisition is deemed to have lapsed because of the operation of the deeming provision of Section 24(2) of the 2013 Act, the benefit of the same cannot be denied to the petitioners on the ground that the petitioners are subsequent purchasers. This is, of course, provided that the conditions precedent for the application

of the deeming provision contained in Section 24(2) of the 2013 Act are satisfied, which they are in the present case.

6. The writ petition is allowed by declaring that the acquisition in respect of the subject land has lapsed. There shall be no order as to costs.

BADAR DURREZ AHMED, J

MARCH 03, 2015
SR

VIBHU BAKHRU, J

