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

% Judgment delivered on: 18.08.2015

+ **W.P.(C) 2985/2015 & CM 5341/2015**

KAPTAN SINGH AND ORS Petitioners

versus

UNION OF INDIA & ORS Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Raghuvinder Varma
For the Respondent UOI : Mr Sarfaraz Ahmad with Mr Dinesh Dahiya
For the Respondent L&B/LAC : Mr Siddharth Panda

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit filed on behalf of respondent nos. 3,4 & 5 by Mr Panda is taken on record. The learned counsel for the petitioners does not wish to file the rejoinder affidavit as all the necessary averments are contained in the writ petition.

2. 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. A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') in respect of which Award No.16/2005-06 dated 14.09.2005 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos. 33//16 (3-0) and 34//20 (4-16) measuring 7 bighas 16 biswas in all in village Mubarakpur Dabas, New Delhi, shall be deemed to have lapsed.

3. It is the case of the petitioners that the physical possession of the subject land is with them and has not been taken over by land acquiring agency. On the other hand the learned counsel for the respondents states that the physical possession of the subject land except 2 bighas 8 biswas out of khasra nos. 34//20 was taken on 04.04.2006. However, insofar as the issue of compensation is concerned, it is an admitted position that the same has not been paid.

4. Without going into the controversy of physical possession, this much is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid. The necessary ingredients for the application of Section 24(2) of

the 2013 Act as interpreted by the Supreme Court and this Court in the following cases stand satisfied:-

- (1) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183;
- (2) **Union of India and Ors v. Shiv Raj and Ors:** (2014) 6 SCC 564;
- (3) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors:** Civil Appeal No. 8700/2013 decided on 10.09.2014;
- (4) **Surender Singh v. Union of India & Others:** WP(C) 2294/2014 decided on 12.09.2014 by this Court; and
- (5) **Girish Chhabra v. Lt. Governor of Delhi and Ors:** WP(C) 2759/2014 decided on 12.09.2014 by this Court.

5. 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 land 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

AUGUST 18, 2015
kb

SANJEEV SACHDEVA, J