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

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Judgment delivered on: 07.04.2015

+ W.P.(C) 6735/2014 and CM No.15955/2014

KAMLESH & ANR

..... Petitioners

versus

HON'BLE LT. GOVERNOR OF DELHI & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Dhruv Sharma, Advocate

For the Respondents : Mr Siddharth Panda, Advocate for L&B/LAC

Mr Pawan Mathur and Mr Himanshu Gupta, Advocates for DDA

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Mr Siddharth Panda, the learned counsel, has handed over the counter affidavit on behalf of respondent Nos. 1, 2 and 4. The same is taken on record. The learned counsel for the petitioners does not wish to file any

rejoinder affidavit inasmuch as he would be relying on the averments already contained in the writ petition.

2. By way of this writ petition the petitioners are 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 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.79A/83-84 (supplementary) dated 12.12.1997 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos. 2797/2026/1675/12 (old) and now the khasra No. 1236 measuring 3 bighas 10 biswas (1/2nd share) in Village Mehrauli shall be deemed to have lapsed.

3. It is an admitted position that physical possession of the subject land has not been taken by the land acquiring agency. Insofar as the question of compensation is concerned, the petitioners state that they have not received any compensation. The learned counsel for the respondent submits that he is not in a position to verify this fact inasmuch as the *Naksha Muntazamin* is not traceable. In this eventuality, as the fact stands today, the statement made

by the petitioner that they have not received any compensation is uncontroverted. Therefore, it is clear that neither physical possession of the subject land has been taken by the land acquiring agency, nor has any compensation 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.

4. 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.

5. 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 07, 2015
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