

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

% Judgment delivered on: 19.01.2015

+ W.P.(C) 6958/2014 & CM 16378/2014

MOHINDER KAUR ANAND

.... Petitioner

versus

UNION OF INDIA & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Sumit Bansal with Mr Ateev Mathur,
Ms Richa Oberoi.
For the Respondent No.1 : Mrs Suparna Srivastava, CGSC with Mr Kumar Harsh.
For the Respondent No.2 : Mr Yeeshu Jain with Ms Jyoti Tyagi for L&B.
For the Respondent No.3 : Mr Pawan Mathur

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit handed over on behalf of respondent no.2 by Mr Yeeshu Jain is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit in view of the averments contained in the writ petition.

2. The petitioner seeks 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. 15/87-88 dated 05.06.1987 was made, *inter alia*, in respect of the petitioner's land comprised in khasra numbers 1572/2 (3-18) and 1731 min (4-13) measuring 8 bighas 11 biswas in all in village Chhattarpur, New Delhi, shall be deemed to have lapsed.

3. Though the respondents claimed that possession of the said land was taken on, the petitioner disputes this and maintains that physical possession has not been taken. However, insofar as the issue of compensation is concerned, it is an admitted position that it 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. It is, however, contended by the learned counsel appearing on behalf of the DDA that the compensation amount was paid to the Land Acquiring Agency. It is also stated by the learned counsel appearing for the Land Acquisition Collector that the said amount was placed in the treasury although it was not paid to the petitioner. The learned counsel for the respondents seek to rely on the second Proviso to Section 24(2) of the 2013 Act which was introduced by virtue of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014, which came into effect on 31.12.2014. However, such reliance cannot be placed by the respondents in view of the fact that the said Ordinance has been held to be prospective

in nature and does not take away the vested rights. This has so been held by the Supreme Court in a recent decision in **M/s Radiance Fincap (P) & Ors. v. Union of India & Ors.** decided on 12.1.2015 in **Civil Appeal No.4283/2011** wherein the Supreme Court has held as under:

“The right conferred to the land holders/owners of the acquired land under Section 24(2) of the Act is the statutory right and, therefore, the said right cannot be taken away by an Ordinance by inserting proviso to the abovesaid sub-section without giving retrospective effect to the same.”

6. It is evident from the above that the Ordinance is prospective and rights created in favour of the petitioner as on 01.01.2014 are undisturbed by the virtue of the said Ordinance.

7. As a result, the petitioner is 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.

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

BADAR DURREZ AHMED, J

JANUARY 19, 2015/ kb

SANJEEV SACHDEVA, J