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

% Judgment delivered on: 02.02.2015

+ **W.P.(C) 7144/2014 & CM 16769/2014**

MANJEET SINGH & ORS. Petitioners

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Rajiv Kumar Ghawana, Advocate.

For the Respondents : Mr Yeeshu Jain with Ms Jyoti Tyagi, Advocates for respondent Nos1 & 2.

Mr Ajay Verma with Mr Amit Mehra, Advocate for respondent No.3/DDA.

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 by Mr Verma on behalf of DDA is taken on record. Insofar as the affidavit which was to be filed by the Land Acquisition Collector is concerned, the same is possibly lying in objection but the same may be taken on record. The learned counsel for the petitioner has already filed the rejoinder affidavit to the counter affidavit on behalf of the DDA. With regard to the counter affidavit on behalf of the LAC, the learned counsel for the petitioner does not wish to

file any rejoinder affidavit inasmuch as, according to him, 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.157/86-87 dated 19.09.1986 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos.72/14/1 & 72/17 measuring 7 Bighas and 16 Biswas in all in village Palam shall be deemed to have lapsed.

3. In this case, the respondents claimed that physical possession of the subject land was taken as far back on 14.10.1986. It is also contended that after the possession was taken, the petitioners tried to encroach upon the said land by putting up structures which was also demolished as per the learned counsel for the DDA and, therefore, it is contended on behalf of the respondents that the physical possession of the subject land is with the respondents and not with the petitioners. The petitioners contend that

they retain the physical possession of the same. Without going into the question of physical possession, it is an admitted position that the compensation amount has not been paid to the petitioners although it has been submitted by the learned counsel for the respondents that the compensation amount was placed in a revolving deposit with the treasury in 04.03.1987.

4. In these circumstances, the respondents seek to place reliance on the newly added second Proviso to Section 24(2) of the 2013 Act which has been introduced by virtue of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014. But, that would be of no avail because of the recent decisions of the Supreme Court in the case of **M/s Radiance Fincap (P) & Ors. v. Union of India & Ors.** decided on 12.01.2015 in **Civil Appeal No.4283/2011** and **Karnail Kaur & Ors. vs State of Punjab & Ors, Civil Appeal No.7424/2013**, which have held that the amendment introduced by virtue of the said Ordinance would be prospective in nature. In other words, the second Proviso would take effect from 31.12.2014 and not from 01.01.2014, the date on which the 2013 Act came into effect. It is on that date (01.01.2014) that the acquisition lapsed

and vested rights were created in the petitioners. As per the said decision of the Supreme Court, what has already vested in the petitioners could not be taken away by the addition of the second Proviso to Section 24(2) of the 2013 Act because the said amendment was prospective in nature and was not retrospective. Thus, the position is that physical possession of the subject land is disputed and compensation has not been paid to the petitioners. The Award was made more than five years prior to the coming into effect of the 2013 Act and, therefore, the ingredients necessary for invoking the provisions of Section 24(2) of the 2013 Act stand satisfied in the light of the various following decisions rendered by the Supreme Court:

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.

6. 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.

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

BADAR DURREZ AHMED, J

FEBRUARY 02, 2015
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SANJEEV SACHDEVA, J

