

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 27.01.2015

+ **W.P.(C) 7467/2014 and CM No. 17690/2014**

POONAM SAWHNEY

.... Petitioner

versus

UNION OF INDIA & ORS

.... Respondents

Advocates who appeared in this case:

For the Petitioners	: Mr N.S. Vasisht with Mr M.P. Bhargava and Ms Jyoti Kataria
For the Respondent Nos. 1 & 2	: Mr Bhagvan Swarup Shukla and Mr Himanshu Gupta
For the Respondent No. 3	: Mr Dhanesh Relan and Mr Arush Bhandari
For the Respondent Nos. 4 & 5	: Mr Yeeshu Jain and Ms Jyoti Tyagi

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. 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. The petitioner claims that neither possession of the subject land has been taken nor has any compensation been paid and, therefore, the petitioner seeks a declaration that the acquisition proceedings 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 Nos. 1485 measuring 4 bighas and 16 biswas in all in village- Chattarpur, shall be deemed to have lapsed.

2. It is an admitted position that neither physical possession of the subject land has been taken by the land acquiring agency, nor has any compensation been paid to the petitioner. The award has, as noted above, also been made more than five years prior to the commencement of the 2013 Act. However, the learned counsel for the respondents contend that this petition is not maintainable by the present petitioner in view of the fact that he is a subsequent purchaser. The learned counsel for the respondents submitted that it is settled law that a subsequent purchaser cannot challenge the acquisition proceedings and he is only entitled to seek compensation. They placed reliance on the Supreme Court decision in the case of **KN Aswathnarayana Setty (D) Tr. LRs.& Ors. Vs. State of Karnataka & Ors.:** **AIR 2014 SC 279**. A reference in this connection was also made to the Supreme Court decision in the case of **Meera Sahni v. Lieutenant Governor of Delhi and Ors.:** **(2008) 9 SCC 177**.

3. 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 petitioner 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 petitioner on the ground that the petitioner is a subsequent purchaser. 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.

4. In the present case, it is evident, as pointed out above, that neither the physical possession of the subject land has been taken by the land acquiring agency nor has any compensation been paid to the original owner or to the petitioner. The award was also made more than five years prior to the commencement of the 2013 Act and, therefore, all the necessary ingredients

of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this court in the following decisions 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. 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.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

JANUARY 27, 2015
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