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

% Judgment delivered on: 25.05.2015

+ **W.P.(C) 7799/2014 & CM 18323/2014**

SHRI BALWAN SINGH & ORS Petitioners

versus

UNION OF INDIA & ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Mr N.S. Vasisht with Mr M.P. Bhargava, Mr Vishal Singh and Ms Jyoti Kataria.

For the Respondent UOI : Mr Dev P. Bhardwaj with Ms Anubha Bhardwaj.

For the Respondent DDA : Mr Dhanesh Relan with Mr Arush Bhandari.

For the Respondent L&B/LAC: Mr Yeeshu Jain with 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 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. 90/1980-81 dated 22.12.1980 was made, *inter alia*, in respect

of the petitioners' land comprised in Khasra Nos. 43 (10-19), 53 (4-09), 55 (3-00), 64 (10-16), 373/70 (6-15), 390/81 (3-00), 375/83 (12-11) and 405/98 (13-15) measuring 65 bighas 5 biswas in all in village Masoodpur, New Delhi, shall be deemed to have lapsed.

2. Though the respondents claimed that possession of the said land was taken on 29.12.1980, the petitioners dispute this and maintain 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.

3. But, the learned counsel for the respondents contend that the execution court had attached a sum of Rs.48,52,875 in August 2014 in the execution petition allegedly pursued by the petitioners herein. It was contended on behalf of the respondents that in such eventuality the petitioners cannot be permitted to have the benefit of section 24(2) of the 2013 Act. The fact remains that as on 01.01.2014, the compensation had not been paid to the petitioners. Even the attachment order was passed subsequently in August 2014. The critical date in the present case is 01.01.2014. As on that date the compensation had not been paid and

therefore the present case would be regarded as one where the compensation has not been paid within the meaning of section 24(2) of the 2013 Act.

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

MAY 25, 2015
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SANJEEV SACHDEVA, J

