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

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Judgment delivered on: 08.09.2015

+ **W.P.(C) 4274/2015 & CM 7752/2015**

M/S MALSH ENTERPRISES PVT. LTD

.... Petitioner

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr N.S. Vasisht, Mr M.P. Bhargava & Mr Vishal Singh
For the Respondent LAC/L&B	: Mr Siddharth Panda
For the Respondent DDA	: Mr Arjun Pant

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 Siddharth Panda on behalf of respondent nos. 4&5 is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit inasmuch as he would be relying on the averments made 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.75/1983-84 dated 09.12.1983 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 74/23/2 (1-1), 77/2/2 (0-7), 3/1 (4-5), 8/2 (4-5), 9/1 (0-7), 12/2 (0-7), 77/13/1 (3-4), 19/1 (0-7), 22/2 (0-3), 18 (5-10) and 74/23/3 (0-3) measuring 19 bighas 19 biswas in all in village Mehrauli, New Delhi, shall be deemed to have lapsed.

3. Though the respondents claimed that possession of the said land was taken on 21.12.1983, 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. 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

SEPTEMBER 08, 2015
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SANJEEV SACHDEVA, J