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

% Judgment delivered on: 23.03.2015

+ **W.P.(C) 7860/2014**

KANAHAYA LAL KANODIA

.... Petitioner

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

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

For the Respondent Nos. 1&2 : Mr Vivek Goyal.

For the Respondent Nos. 3 : Ms Mrinalini S. Gupta with Ms Mrinmoi Chatterjee.

For the Respondent Nos. 4&5 : 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. Although we had closed the right of the respondents to file the counter affidavit, since Mr Yeeshu Jain is ready with the counter affidavit and handed over the same on behalf of respondent nos. 4&5, we are taking it on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit and 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. 28/1984-85 dated 16.01.1985 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 485/277 min.(12-10) measuring 12 bighas 10 biswas in all in village Ladha Sarai, New Delhi, shall be deemed to have lapsed.

3. Though the respondents claimed that possession of the said land was taken on 26.08.2005, the petitioner disputes this and maintains that physical possession has not been taken. However, insofar as the issue of compensation is concerned, the petitioner's case is that compensation has neither been offered nor paid to the petitioner nor his predecessor-in-interest. The stand of the respondents, however, is that the *Naksha Muntzamin* is not traceable and therefore the respondents are not in a position to specifically state as to whether the compensation has been paid or not. In these circumstances the averments made by the petitioner

would have to be accepted and that means that compensation 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

MARCH 23, 2015
kb

SANJEEV SACHDEVA, J

