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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 25.05.2015

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W.P.(C) 8208/2014 & CM 19090/2014

NARENDER KUMAR SHARMA

.... Petitioner

versus

UNION OF INDIA & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner

For the Respondent UOI

For the Respondent Nos.2,4&5

For the Respondent DDA

Mr.Dhananjay Mehlawat

Mr.Vikas Mahajan

Mr.Sanjay Kumar Pathak with Mr.Sunil Kumar
Jha and Mr.Kushal Raj Tater

Mr.Dhanesh Relan with Mr.Arush Bhandari

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. Consequently, the petitioner seeks a declaration that the acquisition proceedings initiated under the Land

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By:AMULYA

Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') and in respect of which Award No. 1/1998-99 dated 24.04.1998 was made, inter alia, in respect of the petitioner's land comprised in khasra no. 247 measuring 1 bighas 1 biswas in village Shahbad Daulatpur, New Delhi, shall be deemed to have lapsed.

2. It is an admitted position 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 petitioner. However, the learned counsel for the respondents submit that a fresh Award has been made in respect of the petitioner's land on 19.03.2015. The facts are that after the Award was made on 24.04.1998, the petitioner did not challenge the same. However, some other persons had challenged the acquisition and the invocation of the emergency provision under section 17 by virtue of WPC No. 3938/1996. This court dismissed that writ petition on 09.07.2007. Thereafter, the matter was taken to the Supreme Court which ultimately quashed the invocation of section 17 as also the section 6 declaration by an order dated 31.03.2012 in Civil Appeal Nos. 3022-3023/2012. However, the benefit of the Supreme Court judgement was specifically limited to the parties who were present before the Supreme Court. The

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petitioner had not challenged the acquisition proceedings and was therefore not a party before the Supreme Court. Thus, insofar as the petitioner is concerned the Award dated 24.09.98 was final. The petitioner could not even take the benefit of the Supreme decision as the same was not available to him.

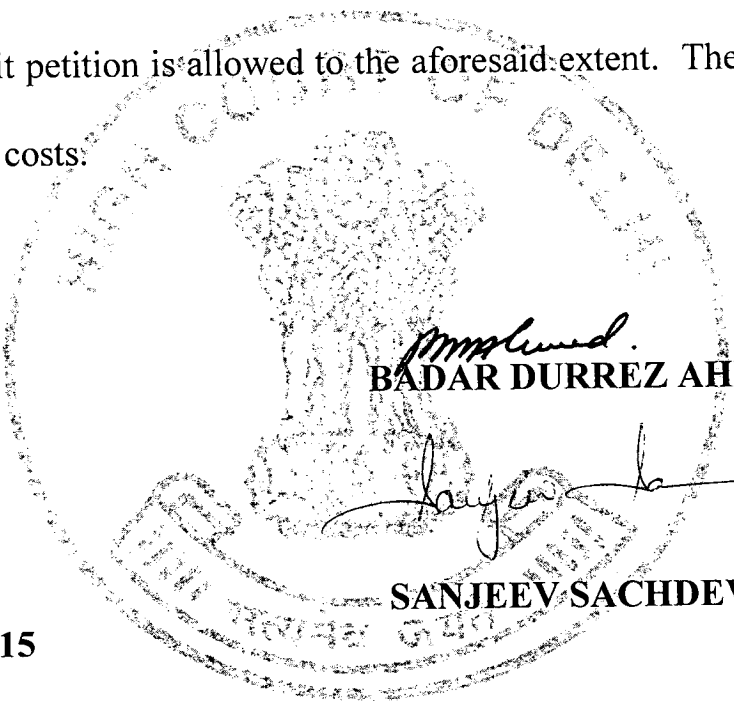
3. In these circumstances the subsequent section 6 declaration (after the Supreme Court decision) and the Award dated 19.03.2015 would not relate to the petitioner's case. It is, therefore, clear that insofar as the petitioner is concerned, the Award was made on 24.04.1998 and it was clearly made more than five years prior to the coming into effect of the 2013 Act. Since the physical possession of the subject land has not been taken nor the compensation been paid to the petitioner, all the 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

4. 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.

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


mmplund.
BADAR DURREZ AHMED, J

Sanjeev Sachdeva
SANJEEV SACHDEVA, J

MAY 25, 2015
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