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

% Judgment delivered on: 09.03.2015

+ **W.P.(C) 8042/2014**

AFSAR BEGUM & ANR Petitioners

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Rajiv Kumar Ghawana

For the Respondent Nos.1&2 : Mr Yeeshu Jain with Ms Jyoti Tyagi

For the Respondent No.3 : Mr Dhanesh Relan with Mr Arush Bhandari

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit handed over by Mr Yeeshu Jain on behalf of respondent nos. 1&2 is taken on record. The learned counsel for the petitioners does not wish to file the rejoinder affidavit inasmuch as according to him all the necessary averments are contained in the writ petition.

2. 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. 21/92-93 dated 18.06.1992 was made, *inter alia*, in respect of the petitioners' land comprised in khasra no. 409 comprising of two bighas (1 bigha owned by each petitioner) in village Jasola, New Delhi, shall be deemed to have lapsed.

3. Though the respondents claimed that possession of the said land was taken on 16.07.2007, 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.

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

MARCH 09, 2015
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VIBHU BAKHRU, J