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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 19.01.2015

W.P.(C) 8392/2014 & CM No.19431/2014

SUDERSHAN SONI AND ANR.

..... Petitioners

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Sanjiv Bahl with Mr Karan Bharihoke and Ms Eklavya Bahl,
Advocate.

For the Respondents :Mr Ripu Daman Bhardwaj, CGSC with Mr T.P. Singh, Advocate for
respondent No.1/UOI.
Mr Siddharth Panda, Advocate for respondent Nos.2 & 3.
Mr Dhanesh Relan with Mr Arush Bhandari, Advocates for respondent
No.4

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

J U D G M E N T

BADAR DURREZ AHMED, J (ORAL)

1. By way of this writ petition the petitioners are seeking 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. The petitioners, consequently, seek a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as ‘the 1894 Act’) and in respect of which Award No.10/87-88 dated 14.05.1987 was made, *inter alia*, in respect of the petitioners’ land comprised in Khasra Nos. 12(2-04), 13(4-16), 14 Min (3-11), 15 (4-16), 16 (4-16), 17 (0-06), 78/1 (0-11), 782/2 (1-02) and 78/3 (0-03) measuring 22 bighas 5 biswas in village Shayoorpur, Mehrauli shall be deemed to have lapsed.

2. It is an admitted position that physical possession of the subject land has not been taken by the land acquiring agency. However, insofar as the compensation is concerned, it is the case of the respondent that the same has been deposited in Court of the learned Additional District Judge under Section 30/31 of the 1894 Act on 27.12.2013. The learned counsel for the petitioners state that they never received any intimation of the same. The Award, however, was made more than five years back prior to the commencement of the 2013 Act. However, since the physical possession of the said land is with the petitioners, 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:-

- (i) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183;
- (ii) **Union of India and Ors v. Shiv Raj and Ors:** (2014) 6 SCC 564;
- (iii) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors:** Civil Appeal No. 8700/2013 decided on 10.09.2014;
- (iv) **Surinder Singh vs. Union of India and Ors.:** W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

3. The learned counsel for the respondent sought to rely on the second Proviso to Section 24(2) of the 2013 Act which was introduced by virtue of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014, which came into effect on 31.12.2014. However, such reliance cannot be placed by the respondent in view of the fact that the said Ordinance has been held to be prospective in nature and does not take away vested rights. This has so been held by the Supreme Court in a recent decision in **M/s Radiance Fincap (P) & Ors. v. Union of India & Ors.** decided on 12.1.2015 in Civil Appeal No.4283/2011 wherein the Supreme Court has held as under:

“The right conferred to the land holders/owners of the acquired land under Section 24(2) of the Act is the statutory right and, therefore, the said right cannot be taken away by

an Ordinance by inserting proviso to the abovesaid sub-section without giving retrospective effect to the same.”

4. It is evident from the above that the Ordinance is prospective and rights created in favour of the petitioner as on 01.01.2014 are undisturbed by virtue of the said Ordinance.

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 lands 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

SANJEEV SACHDEVA, J

JANUARY, 2014

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