

\$~45

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

% Judgment delivered on: 22.09.2015

+ W.P.(C) 8267/2014 & CM 19200/2014

ANCHAL PROPERTIES PVT LTD

.... Petitioner

versus

UNION OF INDIA AND OTHERS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Sumit Bansal with Ms Richa Oberoi
For the Respondent No.1 : Mr Vivek Goyal with Mr Vikramjeet
For the Respondent No.2 : Mr Yeeshu Jain with Ms Jyoti Tyagi
For the Respondent No.3 : Mr Pawan Mathur

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. 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.83/82-83 dated 25.03.1983 was made, *inter alia*, in respect of

the petitioner's land comprised in Khasra Nos. 814 min (3-05) and 815 min (1-12) measuring 4 bighas 17 biswas in all in village Satbari to the extent of the petitioner's share amounting to 790 sq. yds shall be deemed to have lapsed.

2. Though the respondents claimed that possession of the said land was taken on 14.07.1987, 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.

3. However, the learned counsel for the respondents contend that this petition is not maintainable by the present petitioner in view of the fact that he is a subsequent purchaser. The learned counsel for the respondents submitted that it is settled law that a subsequent purchaser cannot challenge the acquisition proceedings and he is only entitled to seek compensation. They placed reliance on the Supreme Court decision in the case of **KN Aswathnarayana Setty (D) Tr. LRs.& Ors. v. State of Karnataka & Ors.**: AIR 2014 SC 279. The learned counsel for the respondents submitted that the transfer, whereby the original owners are

alleged to have transferred their right in favour of the current petitioner, would not confer any title upon the petitioner and at the most the petitioner would be entitled only to claim compensation on the basis of the original owner's title. A reference in this connection was also made to the Supreme Court decision in the case of **Meera Sahni v. Lieutenant Governor of Delhi and Ors.:** (2008) 9 SCC 177.

4. There is no doubt that in the context of the 1894 Act the Supreme Court clearly held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to seek compensation. But, the position obtaining at present is different. This is a petition which does not seek to challenge the acquisition proceedings but seeks a declaration of a right which has enured to the benefit of the petitioner by virtue of the operation of Section 24(2) of the 2013 Act. Once the acquisition is deemed to have lapsed because of the operation of the deeming provision of Section 24(2) of the 2013 Act, the benefit of the same cannot be denied to the petitioner on the ground that the petitioner is a subsequent purchaser. This is, of course, provided that the conditions precedent for the application of the deeming provision contained in Section 24(2) of the 2013 Act are satisfied.

5. 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.

6. 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.

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

BADAR DURREZ AHMED, J

SEPTEMBER 22, 2015
SR

SANJEEV SACHDEVA, J

