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

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Judgment delivered on: 07.04.2015

+ **W.P.(C) 8349/2014 & CM 19343/2014**

C.S. SETHI & ANR

.... Petitioners

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr N.S. Vasisht with Mr M.P. Bhargava & Ms Jyoti Kataria

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. The counter affidavit of respondent nos.4 & 5 handed over by Mr Yeeshu Jain is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit inasmuch as he would be relying on the averments already 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. 10/1987-88 dated 14.05.1987 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos. 179 (4-16) measuring 4 bighas and 16 biswas in all in village Sayoorpur, New Delhi, shall be deemed to have lapsed.

3. Though the respondents claimed that possession of the said land was taken on 09.12.2005, 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. The learned counsel appearing on behalf of the respondents further submitted that the writ petition ought to be thrown out on the ground that it has been filed on behalf of a subsequent purchaser. The learned counsel submitted that the petitioners had purchased the land after the issuance of the notifications under section 4 and 6 of the 1894 Act. He also submitted that it is settled law that a subsequent purchaser has no right to challenge the acquisition proceeding and has only a limited right

to receive compensation. He placed reliance on the Supreme Court decision in the case of **KN Aswathnarayana Setty (D) Tr. LRs.& Ors. Vs. State of Karnataka & Ors.** AIR 2014 SC 279. According to the learned counsel, the Supreme Court held that a person who purchases land subsequent to the issuance of a notification for acquisition is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever. He contended that the sale agreement executed in favour of the subsequent purchaser does not confer upon him any title and at the most he could claim compensation on the basis of the vendors title. A reference was also made to the Supreme Court decision: **Meera Sahni v. Lieutenant Governor of Delhi and Ors.:** (2008) 9 SCC 177.

5. While it is true that, in the context of 1894 Act, the Supreme Court has held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to compensation, we agree with the learned counsel for the petitioners that the present petition as it now stands is not a challenge to the acquisition proceedings but a petition seeking declaration of rights which had accrued to the petitioners by virtue of the deeming provision of section 24(2) of 2013 Act. Once the acquisition has lapsed because of the triggering of the

deeming provision of section 24(2) of 2013 Act, the benefit of the same cannot be denied to the petitioners on the ground that they are subsequent purchasers.

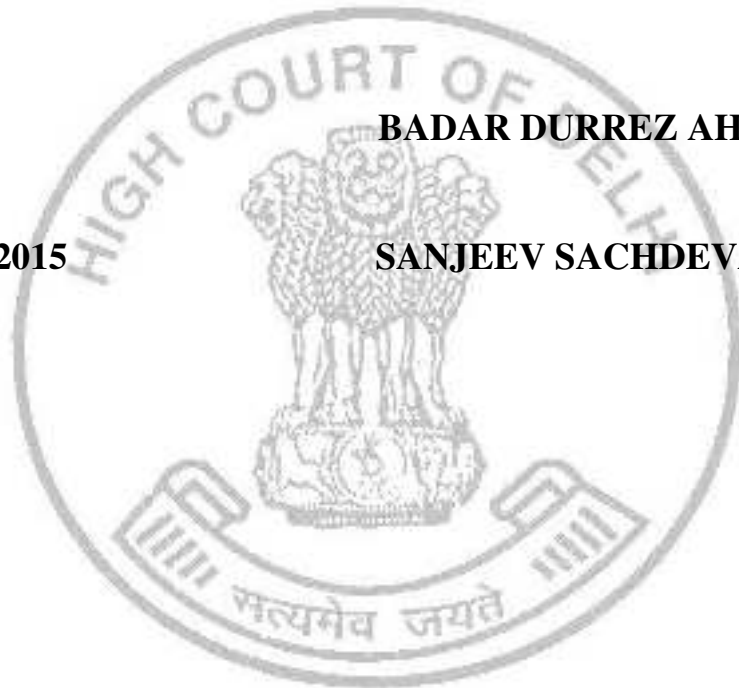
6. Without going into the controversy of physical possession, this much is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid. The necessary ingredients for the application of Section 24(2) of the 2013 Act as interpreted 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.

7. 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.

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

APRIL 07, 2015
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BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J