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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 21.09.2015

W.P.(C) 4935/2015

DURGA PRASAD PATODIA & ORS.

..... Petitioners

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Kred Jure with Mr Ankur Mahindra, Advocates.

For the Respondents : Mr Sanjay Kumar Pathak, Mr Sunil Kumar Jha and Mr Kaushal Raj Tater, Advocates for respondent Nos.2 & 3.

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. The counter affidavit handed over by Mr Sanjay Kumar Pathak on behalf of respondent Nos.2 & 3 is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit inasmuch the necessary averments are contained in the writ petition.

2. 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.03/1998-99 dated 26.02.1999 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 1453 (4-16) measuring 4 bighas 16 biswas in Village Malikpur Kohi @ Rangpuri shall be deemed to have lapsed.

3. Mr Pathak appearing on behalf of the Land Acquisition Collector states that the physical possession of the subject land was taken on 31.12.2013. But as there was a status quo order with regard to the subject land, the same was returned on 08.12.2014. Therefore, the admitted position is neither the physical possession of the subject land is with the land acquiring agency, nor has any compensation been paid to the petitioners. The award was made more than five years prior to the commencement of the 2013 Act. 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:-

- (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.

4. 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.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

SEPTEMBER 21, 2015

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