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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 10.08.2015

W.P.(C) 8411/2014 & CM No.19452/2014 & 6217/2015

NEELAM SRIVASTAVA AND ORS.

..... Petitioners

Versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Rakesh Tikku, Sr. Advocate with Mr Sandeep Kumar, Advocate
Mr B.S. Maan, Mr Vishal Maan, Mr Pantosh Tomar and Mr. Khitij Singh, Advocates

For the Respondents : Mr Abhay Prakash Sahay, CGSC for R-1
Mr Sanjay Kumar Pathak, Mr Sunil Kumar Jha and Mr Kushal Raj, Advocates
Mr Siddharth Panda, Advocate for R-2
Mr Dhanesh Relan and Mr A. Bhandari, Advocate for DDA

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. 90/1980-81 dated 22.12.1980 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 386/76 (3-12) measuring 3 bighas 12 biswas situated in revenue estate of village Masoodpur, New Delhi, shall be deemed to have lapsed.

2. It is an admitted position that neither physical possession of the subject lands has been taken by 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.

3. It may also be pointed out that he may point out that intervention application has been filed in CM No. 6217/2015 where the intervention explaining is claimed to be in possession of the subject land. The dispute with regard to possession *inter-se* the petitioners and the applicant in the said application. We are not deciding this issue of disputes *inter-se* these two parties we have only recorded the admitted position that the Land Acquisition Collector is not of the subject land. The issue of possession *inter-se* the petitioners and the applicant in CM NO. 6217/2015 will have to resolve elsewhere in appropriate forum as per law.

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 along with the pending applications is allowed to the aforesaid extent. CM No. 6217/2015 is also stands disposed of in view of the above observations. There shall be no order as to costs.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

AUGUST 10, 2014
RS