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

% Judgment delivered on: 09.02.2015

+ WP(C) No. 8743/2014 and CM 20088/2014

BISHAN SINGH & ORS.

.... Petitioners

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Rajesh Yadav with Mr Dhanajay Mehlawat, Advocates.
For the Respondents : Mr Sanjay Kumar Pathak with Mr Sunil Kumar Jha and Mr Siddharth Panda, Advocates for respondent Nos.1 & 2.
Mr Dhanesh Relan with Mr Arush Bhandari, Advocates for respondent No.3/DDA.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit handed over on behalf of respondent Nos.1 & 2 is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit inasmuch as he would be relying on the averments already made in the writ petition.

2. 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. 50/80-81 dated 18.07.1980 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra No. 92 Min measuring 1 bigha and 7 biswas in all in village Haiderpur shall be deemed to have lapsed.

3. While the petitioners claim that the possession in respect of the subject land has not been taken by the land acquiring agency and that the petitioners retain the physical possession thereof, it has been contended by the learned counsel for the respondents that out of a total area of four bighas in Khasra No.92, possession of 2 bighas 18 biswas was taken on 19.07.1980 and possession of the balance land could not be taken.

4. Insofar as the question of compensation is concerned, the stand of the petitioners is that they had not received any compensation nor has the compensation amount been offered to them. On the other hand, the respondents contend that the records are not available and, therefore, they are not in a position to either confirm or contradict the statement of the petitioners that the compensation has not been paid to them. It is stated in the counter affidavit in paragraph 11 that efforts are still being made to

trace the record with regard to the compensation. Be that as it may, the position as it obtains today is that the compensation has not been paid to the petitioners.

5. Insofar as the question of physical possession is concerned, it is partly admitted that the same has not been taken in respect of a portion of the land whereas in respect of the balance portion, there is a dispute with regard to the issue of physical possession. The Award was made more than five years prior to the commencement of the 2013 Act and although the issue of physical possession (partly) is disputed, compensation has clearly not been paid to the petitioners. That being the case, the provisions of Section 24(2) of the 2013 Act clearly apply in the light of the various decisions rendered by the Supreme Court and this Court in:

- (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.

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

FEBRUARY 09, 2015
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SANJEEV SACHDEVA, J

