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

% Judgment delivered on: 15.12.2015

+ W.P.(C) 55/2015 & CM Nos. 90/2015, 18793/2015

KHUSHI MOHD. Petitioner

versus

LAND & BUILDING DEPARTMENT & ANR Respondents

+ W.P.(C) 9529/2015 & CM No. 22421/2015

ATTAR SINGH Petitioner

versus

GOVT. OF NCT AND ORS Respondents

Advocates who appeared in this case:

For the Petitioners : Mr A.K. Sen, Advocate and Mr Mukesh Kumar Verma, Advocates

For the Respondents : Mr James Daniel David, Advocate for
Ms M. Sengupta, Advocate
Ms Jyoti Taneja, Advocate for GNCTD

For the Respondent DDA : Mr Sanjeev Sabharwal, Advocates for DDA

For the Respondent L&B/LAC : Mr Yeeshu Jain with Ms Jyoti Tyagi, Advocates for L&B/LAC.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Both these writ petitions are being disposed of together as they pertain to the very same land. The petitioners in these cases claim to be the owners of

the land in question as also to be in possession thereof. A suit for possession has also been filed by the petitioners in W.P. (C) No. 9529/2015 being CS(OS) No. 2112/2008. That suit was filed much prior to the coming into force 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 01.01.2014.

2. Both 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. 14/1987-88 dated 26.05.1987 was made, inter-alia, in respect of the land comprised in Khasra No. 1097 measuring 13 Bighas and 8 Biswas, in all, in Village Satbari, New Delhi, ought to be deemed to have lapsed.

3. The stand of the respondents which includes the Land Acquisition Collector and the DDA is that physical possession of the said land was taken on 14.07.1987. This is disputed by the petitioners in these writ petitions. From the suit filed in 2008, which was much prior to the coming into force of the said Act, it appears that the possession is with Khushi Mohd and it is Attar Singh

and Jabbar who are claiming possession. Thus, it can only be said that at this stage, the physical possession of the subject land is disputed.

4. As regards the question of compensation, the same has not been paid to anyone, but according to the respondents, it has been deposited in the treasury. Such deposit does not amount to payment of compensation as held by the Supreme Court in **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC 183.**

5. It is, therefore, clear that the award was made more than 5 years prior to the commencement of the 2013 Act and compensation has also not been paid. There is a controversy with regard to physical possession but we need not to enter into that domain, in as much as, the necessary ingredients of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following cases stand satisfied:-

- (1) **Union of India and Ors v. Shiv Raj and Ors: (2014) 6 SCC 564;**
- (2) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors: Civil Appeal No. 8700/2013 decided on 10.09.2014;**
- (3) **Surender Singh v. Union of India & Others: WP(C) 2294/2014 decided on 12.09.2014 by this Court; and**

(4) **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 petitioners in both these petitions 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. We are making it clear that we have not made any observation with regard to the *inter-se* title dispute between the petitioners or with regard to the dispute qua physical possession as between the LAC and DDA on the one hand and the petitioners on the other hand.

7. We may point out that the counter affidavits on the part of the respondents have only been filed in W.P. (C) 55/2015 and the same have, at the request of the learned counsel for the respondents, been read as the counter affidavits in the other writ petition being W.P. (C) No. 9529/2015 because they pertain to the very same land.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

DECEMBER 15, 2015

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