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

% Judgment delivered on: 15.12.2015

+ **W.P.(C) 6351/2015 & CM No. 11554/2015**

CHAMAN SINGH & ORS. Petitioners

versus

LAND ACQUISITION COLLECTOR EAST & ANR. Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Inder Singh and Mr Vinod Kumar, Advocates

For the Respondent Nos. 1&2 : Mr Pawan Mathur with Mr Arush Bhandari,
Advocates for DDA

For the Respondents : 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. The counter affidavit handed over by Mr Yeeshu Jain on behalf of the respondent no. 1 is taken on record. The learned counsel for the DDA has also handed over a counter affidavit which is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit in response to the said counter affidavits as he would be relying on the averments made in the writ petition. The learned counsel for the petitioners also limits the reliefs claimed in this writ petition to the extent

of 2 Bighas and 8 Biswas and reserves the right of the petitioners to file separate proceedings in respect of 15 Biswas of land, which both the said respondents claim to have taken physical possession thereof, which is disputed by the petitioners.

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. 6-C/71-72 (Supplementary) dated 31.03.1977 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 394 (3-03) to the extent of only 2 Bighas and 8 Biswas in village Gharonda Neem Ka Bangar, Delhi, shall be deemed to have lapsed.

3. We have already indicated that the respondents claimed to have taken possession in respect of 15 Biswas of land out of the said Khasra and they admitted that the physical possession of 2 Bighas and 8 Biswas could not be taken as the same was built-up. The petitioners have already restricted this petition only to 2 Bighas and 8 Biswas of land and have

reserved their rights to file a separate petition and/or to initiate a separate proceeding with regard to the balance 15 Biswas of land in respect of which the possession is disputed.

4. As regards the issue of compensation, the petitioners' case is that the compensation has neither been offered nor paid to the petitioners. The stand of the respondents, however, is that the *Naksha Muntzamin* is not traceable and therefore the respondents are not in a position to specifically state as to whether the compensation was paid or not. In these circumstances the averments made by the petitioner would have to be accepted and that means that compensation has not been paid.

5. It 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. Physical possession of the 2 Bighas and 8 Biswas of land, to which this petition is now limited, has also not been taken by the Land Acquiring agency. 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.

6. As a result, the petitioners are entitled to a declaration that the said acquisition proceedings in respect of the said 2 Bighas and 8 Biswas of land initiated under the 1894 Act are deemed to have lapsed. It is so declared.

7. The writ petition is allowed to the aforesaid extent. The petitioners are granted liberty to file a separate petition/initiate separate proceedings with regard to the balance 15 Biswas of land in the said Khasra No. 394. There shall be no order as to costs.

BADAR DURREZ AHMED, J

DECEMBER 15, 2015
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SANJEEV SACHDEVA, J