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

% Judgment delivered on: 14.12.2015

+ **WP(C) No. 6859/2015 & CM 12555/2015**

ARUN SAHNI & ANR Petitioners

versus

UNION OF INDIA AND ORS. Respondents

Advocates who appeared in this case:

For the Petitioners	: Mr Achal Gupta
For the Respondent L&B/LAC	: Mr Siddharth Panda
For the Respondent DDA	: Mr Pawan Mathur

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 Panda 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 and reiterates the contents of the writ petition.

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. 15/87-88 dated 05.06.1987 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos. 738/1/1 (0-14), 738/1/2 (0-14), 738/2/1 (1-16), 738/2/2 (1-8) and 787/1 (0-4) measuring 4 bighas and 16 biswas in all in village Chattarpur, Delhi, shall be deemed to have lapsed.

3. Insofar as khasra no. 738 and its sub divisions are concerned, it is admitted by the respondents that the physical possession of the same has not been taken. As regards khasra no. 787, the stand of the respondents is that physical possession of the said land was taken on 01.08.2013. This is disputed by the petitioners, who claim to be in actual physical possession of the entire subject land.

4. In so far as the question of compensation is concerned, the same has not been paid to the petitioners but according to the respondents, the same has been deposited in the treasury.

5. The learned counsel appearing on behalf of the respondents further submitted that the writ petition ought to be thrown out on the ground that it has been filed on behalf of subsequent purchasers. The learned counsel submitted that the petitioners had purchased the land after the issuance of the notifications under section 4 and 6 of the 1894 Act. He also submitted that it is settled law that a subsequent purchaser has no right to challenge the acquisition proceeding and has only a limited right to receive compensation. He placed reliance on the Supreme Court decision in the case of **KN Aswathnarayana Setty (D) Tr. LRs.& Ors. Vs. State of Karnataka & Ors.** AIR 2014 SC 279. According to the learned counsel, the Supreme Court held that a person who purchases land subsequent to the issuance of a notification for acquisition is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever. He contended that the sale deed executed in favour of the subsequent purchaser does not confer upon him any title and at the most he could claim compensation on the basis of the vendors title. A reference was

also made to the Supreme Court decision: **Meera Sahni v. Lieutenant Governor of Delhi and Ors.: (2008) 9 SCC 177.**

6. While it is true that, in the context of 1894 Act, the Supreme Court has held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to compensation, we agree with the learned counsel for the petitioners that the present petition as it now stands is not a challenge to the acquisition proceedings but a petition seeking declaration of rights which had accrued to the petitioners by virtue of the deeming provision of section 24(2) of 2013 Act. Once the acquisition has lapsed because of the triggering of the deeming provision of section 24(2) of 2013 Act, the benefit of the same cannot be denied to the petitioners on the ground that they are subsequent purchasers.

7. Without going into the controversy with regard to the physical possession in so far as the Khasra No.787 is concerned, this much 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 to the petitioners, but has only been deposited in the treasury, which does not amount to payment of compensation as interpreted by the

Supreme Court in **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183.

8. All 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) **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.

9. 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 land are deemed to have lapsed. It is so declared.

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

BADAR DURREZ AHMED, J

DECEMBER 14, 2015
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SANJEEV SACHDEVA, J

