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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 14.03.2016

W.P.(C) 1065/2015 & CM No. 1888/2015

DES RAJ ARORA AND ORS.

..... Petitioners

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr S.K. Rout, Ms Yachna Juneja, Dr. N.Pradeep Sharma and Mr Pawan Kumar, Advocates
For the Respondents : Mr G.D. Mishra, Standing Counsel for R-2/East DMC
Mr Yeeshu Jain, Ms Jyoti Tyagi and Mr Anshuman Nayak for L&B/LAC

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. The counter affidavits handed over by Mr Yeeshu Jain on behalf of respondent No.1 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 in response to the said counter affidavit.

2. 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.102/86-87 dated 19.09.1986 was made, *inter alia*, in respect of the petitioners' land /property bearing No. F-22/3, (admeasuring 444.3 sq. yards) in Village Ghondli (known as Krishan Nagar), shall be deemed to have lapsed.

3. It is an admitted position that physical possession of the subject lands has not been taken by the land acquiring agency. In so far as compensation is concerned, the case of the petitioners is that no compensation has been paid to them. The respondents, however, cannot controvert this because according to them the *Naksha Muntazamin* was in a torn condition and they are unable to ascertain as to whether the compensation has been paid to the petitioners. In this eventuality, it will have to be taken that what the petitioners are stating is correct i.e., that compensation has not been paid to them. 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.

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 is allowed to the aforesaid extent. There shall be no order as to costs.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MARCH 14, 2016

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