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

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Judgment delivered on: 19.07.2016

+ **W.P.(C) 1721/2015 & CM 3084/2015**

ROHIT JAIN & ANR.

.... Petitioners

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners

: Mr S.K. Rout

For the Respondent EDMS

: Mr Balendu Shekhar with Mr Vivek Jaiswal

For the Respondent L&B/LAC

: Mr Yeeshu Jain with Ms Jyoti Tyagi

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The amended memo of parties is on record. The cause title be amended accordingly. The registry is directed to correct the record.

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, which is the subject matter of the present writ petition, ought to be deemed to have lapsed in view of Section 24(2) of the 2013 Act.

3. The Award under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') was made vide Award No.102/1986-87 dated 19.09.1986 and it was in respect of, *inter alia*, the petitioners' land comprised in property bearing No. E-1/15, Krishna Nagar, admeasuring 472.2/9 sq. yards in village Ghondali, Delhi.

4. It is an admitted position that the physical possession of the subject land was taken on 13.02.1987. It is also an admitted position that the subject land was utilized for a park by East Delhi Municipal Corporation. In so far as the compensation is concerned, the same has not been paid. This is because the learned counsel for the petitioner has averred that the compensation has not been paid and the same could not be controverted by the learned counsel for the LAC, in as much as the *Naksha Muntazamin* was in torn condition. Since there is no contrary evidence to the averment made by the petitioners, it will have to be taken as if the compensation has not been paid.

5. Although the physical possession of the subject land has admittedly been taken, compensation has not been paid to the petitioners and the award is also more than five year prior to the commencement of the 2013 Act. Therefore, all

the necessary ingredients of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions 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. Thus, it would have to be declared that the acquisition proceedings have lapsed. However, the learned counsel for the petitioners states, on instructions, that since the land has already been utilized, he is not claiming the return of the land and is only interested in compensation under the 2013 Act. We feel that this is a very fair and reasonable approach adopted on behalf of the petitioners and therefore, we direct that the compensation be paid to the petitioners in terms of the 2013 Act. The same be done within six months.

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

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

JULY 19, 2016

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