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

% Judgment delivered on: 10.05.2016

+ **W.P.(C) 384/2015 & CM No.633/2015 (stay)**

RADHA NAGPAL & ANR. Petitioners

versus

UNION OF INDIA & ORS Respondents

Advocates who appeared in this case:

For the Petitioners : Mr N.S. Vasisht, Advocate.

For the Respondents : Mr Ripu Daman Bhardwaj, CGSC with Mr T.P. Singh,
Advocates for respondent Nos.1 & 2.
Mr Arjun Pant, Advocate for respondent No.3.
Mr Yeeshu Jain with Ms Jyoti Tyagi, Advocates for
respondent Nos.4 & 5.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Mr Yeeshu Jain has handed over a counter affidavit on behalf of the respondent No.5, which 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. In the present petition, the petitioners seek the quashing of the acquisition in respect of their lands. The acquisition proceeding was initiated by a Notification under Section 4 of the Land Acquisition Act,

1894 (hereinafter referred to as the said Act). The said notification was issued on 05.11.1980. This was followed by a declaration under Section 6 dated 06.06.1985. It may be relevant to point out that the Section 6 declaration was issued beyond the period of one year after the notification under Section 4 because there was a stay which was in operation during part of the intervening period.

3. The petitioners had challenged the acquisition by way of a writ petition being CWP 838/1986. In that writ petition, this Court had granted a stay insofar as the petitioners' land comprised in Khasra Nos.374(4-16) and 377(4-16) measuring 9 Bighas and 12 Biswas in all in Village Khanpur was concerned. Because of the stay, the Award No.17/87-88 dated 05.06.1987 did not include the petitioners' said land. This fact is also admitted by the respondent No.5 in paragraph 4 of the counter affidavit filed on behalf of the respondent No.5.

4. CWP 838/1986 was dismissed by this Court in 2005. The petitioners, being aggrieved, went to the Supreme Court in appeal which was also dismissed in 2010. Thereafter, there has been no order of stay in operation which could have prevented the respondents from making the award in respect of the petitioners' said land.

5. It is in this backdrop that the learned counsel for the petitioners submitted that by virtue of Section 11A of the said Act, the Land Acquisition Collector was bound to make an award within two years (excluding the period when the stay order was in operation) from the date of publication of the declaration under Section 6 of the said Act, failing which, the acquisition insofar as the petitioners' lands were concerned, would lapse. About six years have elapsed since the dismissal of the appeal by the Supreme Court and this is certainly in excess of the two years period that is stipulated in Section 11A.

6. Consequently, the entire proceedings for acquisition of the petitioners' said land has lapsed.

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

BADAR DURREZ AHMED, J

MAY 10, 2016
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SANJEEV SACHDEVA, J