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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 02.02.2016

W.P.(C) 1453/2015 & CM No.2551/2015 (stay)

BHARAT BHUSHAN GUPTA & ORS.

..... Petitioners

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr S.K. Rout with Mr Pawan Kumar, Advocates.

For the Respondents : Mr Yeeshu Jain with Ms Jyoti Tyagi, Advocates for respondent No.3.
Ms Mrinalini Gupta with Mr Mrinmoi Chatterjee, Advocates for R-4.

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)

W.P.(C) 1453/2015 & CM No.2551/2015 (stay)

1. The counter affidavit handed over by Mr Yeeshu Jain on behalf of the respondent No.3 (Land Acquisition Collector) (North-West) is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit as the necessary averments are contained in the writ petition.

2. In this writ petition, the petitioners contend that the acquisition proceedings initiated under Section 4 of the Land Acquisition Act, 1894 by virtue of the Notification dated 12.08.1997 has lapsed inasmuch as there is no declaration under Section 6 of the said Act within the stipulated period of one year. The subject matter of the present petition pertains to the land in Khasra Nos.79/24(1-06), 79/25(1-06), 85/3/2 (2-13), 4(3-06), 5(1-03), 6(2-17), 7(3-15), 8/1(2-13), 85/26(4-05), 27(2-10) and 85/15/1 (1-00) measuring 26 Bighas 14 Biswas in all in Village Ghevra, Delhi.

3. In the counter affidavit filed on behalf of the respondent No.3, it is stated that the Notification under Section 4 was issued on 12.08.1997 and was followed by the Notifications under Sections 6 and 17(1) of the said Act dated 10.09.1997. It is further stated that before the award could be made, the petitioners challenged the said acquisition proceedings before this Court in CWP 4002/1997. That petition was allowed by a judgment dated 08.08.2005. By virtue of the said decision, the operation of the urgency clause under Section 17(1) and the declaration under Section 6 were quashed and the Land Acquisition Collector was directed to give an opportunity of hearing to the petitioners as stipulated under Section 5A of the said Act.

4. Against the judgment dated 08.08.2005 delivered by a Division Bench of this Court in CWP 4002/1997, the respondents preferred a special leave petition being SLP (C) 26722/2005 before the Supreme Court. That was also dismissed by virtue of an order dated 25.04.2011.

5. It is stated that thereafter the Land Acquisition Collector gave an opportunity under Section 5A of the Act and the inquiry conducted was also placed before the competent authority but no further declaration under Section 6 of the said Act or other steps in furtherance of the acquisition were taken.

6. From the above statement of facts, which are admitted by the respondents, it becomes clear that the period of one year for making a declaration under Section 6 has elapsed longtime ago. It may be pointed out that even after the dismissal of the special leave petition by the Supreme Court on 25.04.2011, a period far in excess of one year has elapsed. In terms of the Supreme Court's decision in **Padma Sundara Rao v. State of T.N.:** (2002) 3 SCC 533, the Section 6 declaration not having been notified within the mandatory period of one year from the issuance of the Notification under Section 4, the subject acquisition has lapsed in respect of the land of the petitioners referred to above.

7. Consequently, this writ petition is allowed. It is declared that the subject acquisition has lapsed. There shall be no order as to costs.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

FEBRUARY 02, 2016
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