

\$~14(Category-III)

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

% Judgment delivered on: 30.05.2016

+ W.P.(C) 1399/2014 & CM Nos. 2913/2014, 20924/2015

SUSHIL KUMAR GUPTA Petitioner

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Jasbir Singh Malik

For the Respondents : Mr Yeeshu Jain with Ms Jyoti Tyagi for LAC/L&B.

Mr Ajay Verma, Sr. Standing Counsel with Mr Vaibhav Mishra, Advocates for DDA.

Ms Rashmi Chopra and Ms Asiya, Advocates for R-5

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. By way of this writ petition, the petitioner is 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. 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. 35/81-82 dated 10.11.1981 was

made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 70/22(4-16), 70/23 (4-16) measuring 9 bighas 12 biswas in all in village Badli shall be deemed to have lapsed.

2. Though the respondents claimed that possession of the said land was taken on 12.11.81, the petitioner disputed this and maintained that physical possession has not been taken. But, from the decision in RSA No. 124/2009 dated 10.03.2011, it is clear that physical possession of the land in question was taken on 12.03.1981. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not been paid.

3. Thus, although physical possession of the land in question has been taken, 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. 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) **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.

4. As a result, the petitioner is 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.

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

MAY 30, 2016

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