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

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Judgment delivered on: 15.12.2016

+ **W.P.(C) 3287/2014 & CM 6803/2014 & 9527/2015**

KAPIL JAIN & ORS

.... Petitioner

versus

LT. GOVERNOR OF DELHI & ORS

.... Respondents

Advocates who appeared in this case:

For the Appellant : Ms Esha Mazumdar.

For L&B/LAC : Mr Yeeshu Jain & Ms Jyoti Tyagi.

For DDA : Mr Arun Birbal.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. In this writ petition, the plea of the petitioners is that no award has been made within two years of the declaration under Section 6 of the Land Acquisition Act 1894 (hereinafter referred to as the said Act). Thus according to the petitioners, in view of the Section 11A of the said Act, the acquisition proceedings would have to be declared as having lapsed.

2. The petitioner's lands are comprised in khasra nos. 15/15, 15/16 and 15/25 to the extent of 500 sq. yards; khasra no. 35/23/1 to the extent

of 1 bigha; Khasra no.15/6 to the extent of 1 bigha 14 biswas; khasra no.35/23/2 to the extent of 1 bigha 4 biswas; khasra no. 26/19 to the extent of 17 biswas; khasra no. 22/1 to the extent of 3 biswas; khasra no. 37/4 to the extent of 1 bigha; khasra no. 16/4 to the extent of 15 biswas and khasra no. 16/7/1 to the extent of 5 biswas. The total extent of the land in this petition is 7 bighas 7 biswas in Village Shahbad Daulatpur, Delhi.

3. The notification under Section 4 of the said Act was issued on 27.10.1999 and the Section 6 of the Declaration was made on 03.04.2000. Certain other persons had filed petitions before this Court as also appeals before the Supreme Court and the same were ultimately decided by the Supreme Court on 21.03.2012 in **Ramdhari Jindal vs. Union of India: (2012) 11 SCC 370** and several other connected petitions.

4. The case of the petitioners is that even if it is assumed that after the Section 6 Declaration on 03.04.2000, the respondents could not make the award till 21.03.2012 because of the operation of various stay orders, the period of more than 02 years has, in any event, elapsed since 21.03.2012 and therefore, the provisions of Section 11A would be attracted and the acquisition proceedings would have to be considered as having lapsed.

5. The learned counsel for the respondents admit that no award has been made under the said act pursuant to the Section 4 notification insofar as the subject lands are concerned. However, Mr Yeeshu Jain, appearing on behalf of Land Acquisition Collector, submits that a status quo order was passed in this very petition on 25.11.2014. But, this would be of no assistance to the respondents because 25.11.2014 is clearly beyond two

years taken from 21.03.2012, on which date the Supreme Court decision in *Ramdhari Jindal (Supra)* was pronounced. Therefore, whichever way we look at the matter, we are in agreement with the submission made by the learned counsel for the petitioners that the acquisition, insofar as the subject lands are concerned, has lapsed in view of the provisions of Section 11A of the said Act.

6. The learned counsel for the respondents has also submitted that since the petitioners were subsequent purchasers, the present petition could not be maintained by them. It was contended that it is settled law that a subsequent purchaser cannot challenge the acquisition proceedings and that such a person would only be entitled to seek compensation. Reliance was placed on the Supreme Court decision in the case of **K.N. Aswathnarayana Setty v. State of Karnataka: AIR 2014 SC 279.**

7. It was further submitted by the learned counsel for the respondents that the documents under which the petitioners claimed title cannot be regarded as having transferred the rights of the original owner in favour of the petitioners and at the most it would have only entitled the petitioners to claim compensation on the basis of the original owner's title. A reference was made to the Supreme Court decision in the case of **Meera Sahni v. Lt. Governor of Delhi & Ors.: (2008) 9 SCC 177.**

8. While it is clear that in the context of 1894 of the said Act, the Supreme Court held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to compensation, the position is entirely different where there is no acquisition because the same has lapsed by virtue of Section 11A of the said Act. Therefore,

there would be no question of granting any compensation in respect of the said land. The present petition does not seek to challenge the acquisition proceedings but seeks a declaration to the effect that the same has lapsed by operation of law.

9. Once the acquisition has lapsed by operation of law, the benefit of the same cannot be denied to the petitioners on the ground that the petitioners are subsequent purchasers.

10. The appeal stands allowed and it is declared that the acquisition in respect of the subject lands has lapsed in view of the provisions of Section 11A of the said Act. There shall be no order as to costs.

11. The pending applications also stand disposed of.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

DECEMBER 15, 2016

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