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

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Judgment delivered on: 08.11.2016

+ **W.P.(C) 4141/2014**

MANJEET SINGH

.... Petitioner

versus

**LT. GOVERNOR-CUM-ADMINISTRATOR
AND ORS**

.... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Sandeep Bajaj & Mr Soayib Qureshi.

For R-1 & R-2 : Mr Yeeshu Jain & Ms Jyoti Tyagi.

For R-3 : Mr Dig Vijay Rai.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The additional affidavit handed over by Mr Yeeshu Jain on behalf of the respondent nos.1 & 2 is taken on record. The learned counsel for the petitioner states that the rejoinder affidavit to the counter affidavit filed on behalf of the respondent is already on record as also the writ

petition which takes care of all the averments which are to be made in the additional affidavit and, therefore, no further response is necessary.

2. The petitioner seeks 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.28/1987-88 dated 23.12.1987 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos.1864(3-00) and 1863(1-16) total measuring 4 bighas 16 biswas in all in village Malikpur Kohi @ Rangpuri, Tehsil Mehrauli, Delhi, shall be deemed to have lapsed.

3. It is an admitted position that the physical possession of the said land was taken. However, there is a dispute with regard to the date on which the possession was taken. According to the petitioner, the physical possession was taken in the year 2002 whereas according to the respondents, it was taken on 29.01.1987.

4. As regards the question of compensation, admittedly, the same was not paid to the petitioner. It was however deposited in the treasury.

Interestingly, enhanced compensation was deposited in the Court on 27.01.2001. However, the petitioner's case is that he was not aware of any such deposit and, in fact, no prior offer was made to the petitioner. Therefore, this must be taken as the case where the compensation has not been paid to the petitioner.

5. It is the clear case of the petitioner that even the enhanced compensation has not been withdrawn by them and therefore, it would be open to the Land Acquisition Collector to seek a return of the same from the Court.

6. Thus although the physical possession of the land has been taken by the land acquiring agency, it is absolutely 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 to the petitioner. Consequently, all 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 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:** 2015 (3) SCC 353;
- (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.

7. The affidavit of Airport Authority of India states that such piece of land is earmarked for proposed Airport Authority of India Colony and the work is likely to commence soon.

8. As pointed out by the Supreme Court in **DDA vs. Kusham Jain & Another** in **Civil Appeal No.8477/2006** decided on 31.08.2016, even in the event of any lapsing of acquisition proceedings under Section 24(2), it is still open to the appropriate authority to initiate proceedings for acquisition of said land afresh. The only rider is that the acquisition would be in accordance with the provisions of 2013 Act. As indicated by the Supreme Court in the said decision, in case the land is actually required by the Airport Authority of India, as stated in their affidavit, then they have to initiate fresh steps for acquisition of the subject land under

the provisions of 2013 Act but that must be done within six months from today. In case there is no such acquisition undertaken within the period of six months in accordance with law, the respondent no.3 (AAI) shall return the physical possession of the land to the petitioner.

9. The appeal stands allowed as above. There shall be no order as to costs.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

NOVEMBER 08, 2016

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