

\$~29

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

% Judgment delivered on: 19.09.2016

+ **W.P.(C) 2804/2015**

ASHOK GARG

.... Petitioner

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms Iti Sharma and Mr Puneet Sharma.

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

For the DDA : Mr Dhanesh Relan.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. 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. 22/2005-06 dated 10.01.2006 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra No. 54//17 (04-13) to the

extent of 150 sq. yards in all in village Karala shall be deemed to have lapsed.

2. Though the respondents claimed that possession of 4 Bighas 12 Bishwas of land was taken on 23.02.2007 out of the above mentioned khasra number, however, the petitioner states that land, to the extent of 150 sq. yards, which he claims in the present petition, is in the physical possession of the petitioner and was not at all taken by the respondents. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not been paid.

3. Without going into the controversy of physical possession, 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) **Delhi Development Authority v. Sukhbir Singh & Ors:** Civil Appeal No.5811/2015 decided on 09.09.2016.
- (5) **Surender Singh v. Union of India & Others:** WP(C) 2294/2014 decided on 12.09.2014 by this Court; and
- (6) **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.

6. Copy of this judgment be sent to the Gaon Sabha, Karala, through the Standing Counsel for the Government of NCT of Delhi for information.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

SEPTEMBER 19, 2016/ab