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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 12.01.2016

W.P.(C) 2899/2015 & CM 5958/2015

KRAM SINGH @ BIKRAM SINGH @ JAGDISH AND ANR.

..... Petitioners

versus

THE LT. GOVERNOR OF DELHI AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Rahul Sharma with Mr Parvesh Chaudhary
For the Respondent L&B/LAC : Mr Siddharth Panda
For the Respondent DDA : Mr Arjun Pant

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)

1. The counter affidavit handed over by Mr Siddharth Panda on behalf of respondent nos. 2&3 is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit as all the necessary averments are contained in the writ petition.

2. By way of this writ petition the petitioners seek 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. The petitioners seek a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') and in respect of which Award No.25A/70-71 dated 28.03.1980 was made, *inter alia*, in respect of the petitioners' land comprised in khasra no. 147 measuring 800 Sq. Yds. in all in village Gazipur, Delhi, shall be deemed to have lapsed.

3. The case of the petitioners is that neither physical possession of the said 800 Sq. Yds. of land has been taken by the land acquiring agency nor has any compensation been paid to the petitioners. On the other hand the respondents state that the possession of 1 bigha 18 biswas out of khasra no. 147 was taken on 18.04.1980. However, it is also admitted that the possession of the land to the extent of 10 biswas was not taken. Insofar as the compensation is concerned, the learned counsel for the respondents contend that the amount was sent to the treasury. That of course does not amount to any payment of compensation as held by several decisions of this

court. Furthermore, it is also to be noted that in response to an RTI query, the Tehsildar (LA), District East, Delhi, has clearly, in his response dated 29.04.2008, stated that the compensation has not been paid.

4. From the aforesaid circumstances it is clear that neither physical possession of the said 800 Sq. Yds has been taken by the land acquiring agency nor has any compensation been paid to the petitioners. The award was made more than five years prior to the commencement of the 2013 Act and therefore all the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:-

- (i) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183;
- (ii) **Union of India and Ors v. Shiv Raj and Ors:** (2014) 6 SCC 564;
- (iii) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors:** Civil Appeal No. 8700/2013 decided on 10.09.2014; and
- (iv) **Surender Singh v. Union of India and Ors.:** W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

5. As a result the petitioners are entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared.

6. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

JANUARY 12, 2016

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