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

% Judgment delivered on: 15.02.2016

+ **W.P.(C) 2916/2015 & CM 5224/2015**

B.S. DHILLON AND ORS. Petitioners

versus

UNION OF INDIA & ORS. Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Rishi Bhatnagar
For the Respondents LAC/L&B : Mr Yeeshu Jain with Ms Jyoti Tyagi
For the Respondent DDA : Mr Arjun Pant
For the Respondent UOI : Mr K.K. Jha

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE R.K. GAUBA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The additional affidavit handed over on behalf of respondent nos. 2 and 3 by Mr Yeeshu Jain is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit and reiterates the averments made in the writ petition.

2. 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. 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.15/1992-93 dated 19.06.1992 was made, *inter alia*, in respect of petitioners' land comprised in khasra nos. 62 and 65 in village Behlolpur Khadar, New Delhi has lapsed. Khasra no. 62 comprises of 13 bighas 6 biswas out of which the petitioner no.2 claims only 1 bigha. Khasra no. 65 comprises of 7 bighas 11 biswas out of which the petitioner no.1 claims only 1 bigha.

3. Though the respondents claimed that possession of the said land was taken on 21.04.2006, the petitioners dispute this and maintain that physical possession has not been taken. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not been paid.

4. 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) **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.

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 land are deemed to have lapsed. It is so declared.

6. The learned counsel for the respondents also raised the objection that the present petition would not be maintainable, at least on behalf the petitioner no.2, because the said petitioner was a subsequent purchaser. Though, under the 1894 Act, the Supreme Court has held that the subsequent purchaser would not have a right to challenge the acquisition

and would only have a right to compensation, in the present petition the challenge is not to the acquisition proceeding but, the petition is one whereby a declaration is being sought of a right deemed to have accrued to the petitioner by virtue of the deeming provision of section 24(2) of the 2013 Act. Once the acquisition has lapsed because of the triggering of the deeming provision of section 24(2) of the 2013 Act, the benefit of the same cannot be denied to the petitioner No. 2 on the ground that he is a subsequent purchaser.

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

BADAR DURREZ AHMED, J

FEBRUARY 15, 2016
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R.K. GAUBA , J