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

% Judgment delivered on: 02.02.2016

+ **W.P.(C) 3209/2015**

BHIM SAIN GOEL & ORS.

.... Petitioners

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Ravinder Sethi, Sr Advocate with Mr Vishwa
Ranjan Kumar, Mr Rajiv Kumar Ghawana and
Mr Arvind Kumar

For the Respondent Nos. 1&2: Mr Yeeshu Jain with Ms Jyoti Tyagi

For the Respondent No.3 : Mr Arjun Pant

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. 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. 1/DC/W-2005-06 dated 22.08.2005 was made, inter alia, in respect of the petitioners' land comprised in Khasra Nos. 57/23 (2-08), 65/3 (2-08) and 65/8 (0-14) measuring 05 bighas 10 biswas in all in village Mundka shall be deemed to have lapsed.

2. The Land Acquisition Collector claims that possession of the said land was taken on 24.12.2008. Interestingly, they claim that immediately on taking over possession of the subject land the same was handed to the DDA. However, the affidavit filed on behalf of the DDA states that possession was not handed over by the Land Acquisition Collector to the DDA. Apart from this the learned counsel for the petitioners points out that the respondents / LAC could not have taken possession of the subject land because there was a status quo order which had been passed by a Division Bench of this court on 18.11.2005 in W.P.(C) 21639/2005. That writ petition was dismissed on 20.08.2007. Thereafter a special leave petition was filed before the Supreme Court being S.L.P.(C) No. 17504/2007 (later the special leave petition was admitted and has now become Civil Appeal Nos. 4116-4120 of 2009) in which stay was granted on 19.09.2007 and that has continued till date. Therefore, according to the learned counsel for the petitioners, possession of the said land has not been taken by the respondents. Insofar as the issue of compensation is concerned, it is an admitted position that the same has not been offered or paid to the petitioners.

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) **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.

4. 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.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

FEBRUARY 02, 2016
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