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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 01.02.2016

W.P.(C) 3354/2015

SHRI KANWAR SINGH & ORS

..... Petitioners

versus

GOVERNMENT OF NCT OF DELHI & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners	:	Mr N.S.Dalal
For the Respondents/ LAC/L&B/GNCTD.	:	Mr Sanjay Kumar Pathak and Mr Sunil Kumar Jha
For the Respondent/DDA	:	Ms Mrinalini Gupta and Ms Mrinmoi Chatterjee

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)

W.P.(C) 3354/2015 & CM No.6009/2015(stay)

1. By way of this writ petition, the petitioners are seeking 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, consequently, 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.30/2002-03 dated 09.12.2002 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 25//3 measuring 3 bighas 19 biswas in village Pochanpur, Dwarka, shall be deemed to have lapsed.

2. It is an admitted position that compensation has neither been paid nor offered to the petitioners. Insofar as physical possession of the subject land is concerned, the petitioners claim that physical possession is with them. Initially, it was contended by the learned counsel appearing for the Land Acquisition Collector that physical possession had been taken but on going through the counter-affidavit furnished by the Land Acquisition Collector, it becomes clear from para 8 thereof that the possession proceedings needed to be corrected because of the reason that the subject land was partly built up. This clearly indicates that the physical possession of the subject land had not been taken. The award was made more than five years prior to the commencement of the 2013 Act and as such, 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.
- (v) **Surender Singh v. Union of India and Ors.:** W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

3. 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.

4. 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 01, 2016
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