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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 15.02.2016

W.P.(C)4269/2015

RAM KISHAN GUPTA AND ORS.

..... Petitioners

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners

: Mr Hemant Malhotra

For the Respondent Nos. 3&4

: Mr Siddharth Panda

For the Respondent DDA

: Mr Pawan Mathur

For the Respondent UOI

: Mr Rajesh Kumar with Mr Jitendra Kumar
Tripathi

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE R.K. GAUBA

J U D G M E N T

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit on behalf of respondent nos. 3 and 4 handed over by Mr Panda is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit and reiterates the contents of 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, 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.79-A/83-84/Supplementary dated 11.12.1997 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 1236 measuring 1 bigha 15 biswas in all in village Mehrauli, New Delhi, shall be deemed to have lapsed.

3. It is an admitted position that physical possession of the subject land has not been taken by the land acquiring agency. Insofar as compensation is concerned, it is the case of the petitioners that compensation has neither been offered nor paid to them. The learned counsel for the respondents, however, submit that as the *Naksha Muntzamin* and the statement 'A' are not traceable they are not in a position to confirm whether compensation has been paid or not been paid to the petitioners. In these circumstances, it will have to be taken as compensation not having been paid to the petitioners. The award was made more than five years prior to the commencement of the 2013 Act.

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.

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 lands 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

R.K. GAUBA, J

FEBRUARY 15, 2016

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