

\$~26

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 08.02.2016

W.P.(C) 6900/2014

ANIL JAIN

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr Narendra
For the Respondent L&B/LAC	: Mr Yeeshu Jain with Ms Jyoti Singh
For the Respondent DDA	: Mr Dhanesh Relan with Mr Arush Bhandari

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 Yeeshu Jain on behalf of respondent nos. 1&2 is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit as the necessary averments are contained in the writ petition.

2. By way of this writ petition the petitioner is 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 petitioner, consequently, seeks 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.7/97-98 dated 12.12.1997 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 1610/1195/558 Min measuring 2 bighas 3 biswas in all in village Bahapur, Delhi, shall be deemed to have lapsed.

3. Although it is the case of the respondents that possession was taken on 26.06.1997, the learned counsel for the petitioner has drawn our attention to an order dated 24.11.2008 passed by a Division Bench of this court in WP(C) 1714/2008 which was a petition filed by the present petitioner's father claiming compensation in respect of the said 2 bighas 3 biswas of land. This was a part of a larger acquisition of 20 bighas 7 biswas. Insofar as the 2 bighas 3 biswas of land was concerned, it is noted in the said order dated 24.11.2008 that compensation cannot be given to the petitioner because of a specific stand taken by the respondents that possession of the said 2 bighas 3 biswas of land had not been taken by the government and therefore the question of payment of compensation did not arise.

4. Therefore, two facts emerge from the said decision. The first being that possession of the subject land has not been taken over by the Land Acquisition Collector and the second being that compensation has also not been paid to the petitioner for the said land. 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.**

5. As a result the petitioner is 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

FEBRUARY 08, 2016
kb

