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

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Judgment delivered on: 09.11.2016

+ **WP(C) No.6763/2014**

SANTOSH KUMAR & ORS.

.... Petitioners

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr Rishi Malhotra with Mr Rajat Roshan Sharma
For the Respondent UOI	: Ms Saroj Bidawat
For the Respondent L&B/LAC	: Mr Yeeshu Jain with Ms Jyoti Tyagi
For the Respondent DDA	: Mr Dhanesh Relan with Ms Isha Garg

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

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, which is the subject- matter of the present petition, ought to be deemed to have lapsed in view of the Section 24(2) of the 2013 Act.

2. The number of the award is 1934-C/1981-82 and is dated

06.02.1981. It is in respect of, *inter alia*, the petitioners' land comprised in Khasra Nos. 77/2 (2-06), 78/1 (1-10), 79/2(1-08), 75/2 (4-14), 76 (1-11), 73/2(1-14), 74/3 (3-12), measuring 16 bighas 15 biswas in village Molar Band. Admittedly, physical possession of the subject land was taken on 02.03.1981. The said land is to be utilized for Badarpur Thermal Power Project. Admittedly, compensation has not been paid to the petitioners.

3. Although physical possession of the subject land has admittedly been taken, compensation has not been paid to the petitioners and the award was made more than five years prior to the commencement of the 2013 Act. Consequently, all the necessary ingredients of Section 24(2) of the 2013 Act, as interpreted by the Supreme Court and this Court in the following decisions, 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:** 2015 (3) SCC 353;
- (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. The inevitable conclusion would be that the acquisition proceedings would have to be declared as having lapsed. But, the learned

counsel for the petitioners submits that as physical possession of the land has been taken and the same is being utilized for the Badarpur Thermal Power Project, the petitioners are not claiming the return of the land and would be satisfied, if compensation is given to the petitioners under the 2013 Act. This is a fair and very reasonable approach adopted on behalf of the petitioners. It also enables the respondents to retain the land for the purpose for which it was sought to have been acquired without going through an entirely new acquisition process. Therefore, we direct that the compensation be paid to the petitioners in terms of the 2013 Act. The same be done within six months.

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

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

NOVEMBER 09, 2016

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