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

% Judgment delivered on: 02.02.2016

+ **W.P.(C) 3501/2015 and CM No. 6262/2015**

HARI PRAKASH

.... Petitioner

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr N.S. Dalal, Mr Devesh Pratap Singh, Ms Nidhi Dalal and Ms Ruchika Sharma

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

For the Respondent No.3 : Mr Dhanesh Relan

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The petitioner seeks 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. 11/2004-05 dated 06.07.2004 was made, inter alia, in respect of the petitioner's land comprised in Khasra No. 48/16 min (1-09)

measuring 01 bighas 09 biswas in all in village Sannoth shall be deemed to have lapsed.

2. Though the respondents claimed that possession of the said land was taken on 06.07.2005, the petitioner disputes this and maintains that physical possession has not been taken. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not been paid.

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. The learned counsel for the DDA has vehemently argued that the land is necessary for the Housing Project at Sector G-2, G-6, G-7 and G-8, Narella in village Sannoth. The avenue of fresh acquisition is always open and it is specifically so provided in Section 24(2) of the 2013 Act which categorically states that even after the lapsing of the acquisition under the 1894 Act, the appropriate Government, if it so chooses, can initiate proceedings of such land acquisition afresh in accordance with the provisions of the 2013 Act. We may also point out that no development work has been done on the subject land. 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 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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