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

% Judgment delivered on: 21.07.2016

+ **W.P.(C) 3566/2015 & CM 6359/2015**

MAHENDER SINGH

.... Petitioner

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms Smita Maan with Mr Vishal Maan

For the Respondent Nos.1-2 : Mr Sanjay Kumar Pathak with Mrs Kaomudi Kiran
Pathak, Mr Sunil Kumar Jha and Mr Kushal Raj Tater

For the Respondent No. 3 : Mr Pawan Mathur

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE V. KAMESWAR RAO

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. In this petition 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. It is the case of the petitioner that the acquisition proceedings, which were initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') have lapsed because the ingredients of the provisions of Section 24(2) of

the 2013 Act stand satisfied. The acquisition proceedings under the 1894 Act resulted in Award No. 1/2007-08 dated 06.08.2007 and this was in respect of, *inter alia*, the petitioner's land in khasra Nos. 5//24(4-0), 25/1(1-09) and 35//5 min 2 (1-18) measuring 7 bighas and 7 biswas in all in village Bamnoli. To be clear, the petitioner claims a 1/4th share in the first two khasra numbers and a full share in the last of the three khasra numbers mentioned above.

2. Insofar as khasra Nos. 5//24 and 25/1 are concerned, the position that obtained is that while the petitioner claims that physical possession is with the petitioner, the respondents, on the other hand, claim that physical possession was taken on 14.09.2007. Therefore, the issue with regard to possession remains disputed. Insofar as the issue of compensation is concerned, admittedly, compensation has not been paid to the petitioner in respect of these two khasra numbers.

3. With regard to khasra No. 35//5 min 2, admittedly, physical possession has not been taken from the petitioner and the same is with the petitioner. Insofar as the issue of compensation is concerned, according to the learned counsel for the respondents, the compensation amount was deposited in Court on 16.08.2010 and continues to be lying deposited

there. Therefore, the learned counsel for the respondents contend that compensation has been paid to the petitioner insofar as khasra No. 35//5 min 2 is concerned.

4. As observed by the Supreme Court in **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014)**

3 SCC 183, mere deposit of the compensation amount in Court under the 1894 Act would not amount to payment of compensation unless it has first been offered to the petitioner. There is no averment in the counter-affidavits filed on behalf of the respondents to the effect that the compensation was first offered to the petitioner and thereafter the same was deposited in Court. This being the case, it cannot be said that compensation was paid to the petitioner even in respect of khasra No. 35//5 min 2.

5. Insofar as khasra Nos. 5//24 and 25/1 are concerned, the position is clear that compensation has not been paid and that possession is disputed. The Award was also made more than five years prior to the commencement of the 2013 Act. In the case of khasra No. 35//5 min 2 neither possession has been taken nor can compensation be regarded to have been paid, as indicated above. The Award, obviously, is more than

five years prior to the commencement of the 2013 Act. Thus, in respect of the 1/4th share of the petitioner in the khasra Nos. 5//24 and 25/1 and the full share in khasra No. 35//5 min 2, the acquisition under the 1894 Act is deemed to have lapsed in view of the following decisions:-

- (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;

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

BADAR DURREZ AHMED, J

**JULY 21, 2016
SR**

V. KAMESWAR RAO, J