

\$~39

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 01.02.2016

W.P.(C) 3872/2015

JANNAT BEGUM & ORS

..... Petitioners

versus

GOVERNMENT OF NCT OF DELHI & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr N.S.Dalal

For the Respondent : Mr Siddharth Panda for L&B/LAC

For the DDA : Ms Shobhana Takiar

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)

W.P.(C) 3872/2015 & CM No.6926/2015(stay)

1. The counter-affidavit handed over by Mr Siddharth Panda, the learned counsel on behalf of the respondent Nos.1 & 2, is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder-affidavit inasmuch as, according to him, all the necessary averments are contained in the writ petition.

2. By way of this writ petition, the petitioners are 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 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.22/70-71 dated 29.07.1970 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 34//3/2 (1-04) (to the extent of 4 biswas only) in village Khureji Khas, shall be deemed to have lapsed.

3. It is the claim of the petitioners that physical possession of the 4 biswas of land, out of the above-mentioned khasra number, are with the petitioners, and have not been taken by the land acquiring agencies. It is also their case that no compensation has been paid to the petitioners. The learned counsel for the respondents have stated that the said khasra number comprised of 1 bigha 4 biswas of land, out of that 1 bigha of land, was taken possession of but the 4 biswas of land could not be taken possession of in view of the fact that it was built up. The learned counsel for the petitioners submits that it is this piece of land in respect of which the present writ

petition has been filed. The respondents also contended that compensation was not paid in respect of these 4 biswas of land as possession had not been taken. That being the case, coupled with the fact that 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 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 01, 2016/‘sn’