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

% Judgment delivered on: 01.03.2016

+ **W.P.(C) 3901/2015 and CM No. 6967/2015**

DIWAN CHAND AND ORS.

.... Petitioners

versus

GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Shridhar Y. Chitale, Adv. with Mr Vivek R. Mohanty, Ms Shakshi S. Yadav and Mr Sameer Jain, Advocates.

For the Respondents : Ms Mrinalini Sen Gupta and Ms M. Chatterjee, Advocates for DDA
: Mr Yeeshu Jain and Ms Jyoti Tyagi, Advocates for the Respondents/L&B/LAC

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

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 proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') in

respect of which Award No. 5/2008-09 dated 28.11.2008 was made, *inter alia*, in respect of the petitioners' land described herein below in village Najafgarh, Delhi, has lapsed:-

<u>Item Nos.</u>	<u>Parties Name</u>	<u>Khasra Nos with details</u>
6 & 7	Diwan Chand (Petitioner No. 1) Khem Chand (Petitioner No. 2)	42//9/2 (3-04), 10/2 (4-13), 13/1 (1-9), 8/1 (1-2), 9/1/1 (1-5), 12/2 min (1-14), 43//6/2/1 (2-9), in all 15 bigha 16 biswas
13	Hari Prakash (Petitioner No. 3)	42//13/2/2 (3-0), 18/2 min (2-8), in all 5 bigha 8 biswa
14 & 15	Hari Prakash (Petitioner No. 3) Dharambir (Petitioner No. 4)	42//17/2 (3-7), in all 3 bigha 7 biswa
17, 18 & 19	Diwan Chand (Petitioner No. 1) Khem Chand (Petitioner No. 2) Hari Prakash (Petitioner No. 3)	42//14/1 (0-19), in all 19 biswa
42	Dharambir (Petitioner No. 4)	42//19/1/1 (0-07), 23/1/1 (1-00), 18/2 min (0-19), in all 2 bigha 06 biswa
44	Dharambir (Petitioner No. 4)	42//19/2/1 (0-12), in all 12 biswa

45	Dharambir (Petitioner No. 4)	42//24/1/1 (3-16), in all 3 bigha 16 biswa
54	Dharambir (Petitioner No. 4)	49//4/1 (1-09), in all 1 bigha 9 biswa
56, 57, 58 & 59	Parasram (Petitioner No. 5) Ram Singh (Petitioner No. 6) Dharmendra (Petitioner No. 7) Devendra Vashesar (Petitioner No. 8)	50//12/2 min (0-14), 49//5 min (1-00), 6/1 (3-7), 50//1/1-2min (1-01), in all 6 bigha 2 biswa
62, 63, 64, 65 & 66	Parasram (Petitioner No. 5) Ram Singh (Petitioner No. 6) Dharmendra (Petitioner No. 7) Devendra (Petitioner No. 8) Phoolwati (Petitioner No. 9)	50//1/2/1 (2-05), 9/1/1 (0-13), 10 (4-16), 11/1 min (3-06), in all 11 bigha

2. It is claimed by the petitioners that the physical possession of the subject land had not been taken by the land acquiring agency. On the other hand, the learned counsel for the respondents contended that the possession was taken on 23.11.2012. It is, therefore, clear that the issue with regard to the physical possession can be stated to be disputed. As regards the compensation, it has been contended on behalf of the

respondents that the same was deposited in the Court of the learned Addl. District Judge on 27.12.2013. However, the learned counsel for the petitioners submits that no compensation whatsoever has been received by the petitioners and such deposit in the Court of the learned Addl. District Judge would not amount to payment of compensation as compensation had not been offered to the petitioners prior to such alleged deposit.

3. This issue has already been settled by a decision of this Court in **Gyanender Singh & Ors v. Union of India & Ors.**, W.P.(C) No. 1393/2014 decided on 23.09.2014 wherein this Court held that unless and until the compensation was tendered to the persons interested, mere deposit of the compensation in Court would not be sufficient. The compensation cannot be regarded as having been paid merely on the deposit of the same in Court unless and until it has first been offered to the person interested and he has refused to accept the same. In the present case, it is an admitted position that the compensation amount was tendered in the Court without first being offered to the petitioners herein. Therefore, the same, following the decision in **Gyanender Singh** (*supra*), cannot be regarded as compensation having been paid to the petitioners.

4. In these circumstances, while the question of physical possession is disputed, it is clear that compensation has not been paid to the petitioners. The award was made more than five years prior to the commencement of the 2013 Act. All the ingredients necessary for the applicability 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: 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) **Gyanender Singh & Ors v. Union of India & Ors: WP(C) 1393/2014.**

5. 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 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

MARCH 01, 2016

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