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

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Judgment delivered on: 08.08.2016

+ **W.P.(C) 8386/2014 & CM 19422/2014**

SHRI RAMI & ORS

.... Petitioners

versus

LAND ACQUISITION COLLECTOR SOUTH-EAST & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners

: Mr Inder Singh

For the Respondent LAC/L&B

: Mr Yeeshu Jain with Ms Jyoti Tyagi

For the Respondent DDA

: Mr Dhanesh Relan

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit on behalf of respondent No.1 has been handed over by Mr Yeeshu Jain. The same is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit inasmuch as he would be relying on the averments made in the writ petition.

2. 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 initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') in respect of which Award No.50-A/69-70 dated 4.11.1981 (Suppl.) was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos. 2021/956 (7-04), 979 min (3-18), 2749/801 (0-18), 833 (0-08), 902 (1-14), 1854/888 (0-12), 1846/760 (0-06), 2777/1922/972 (0-11), 1130/1 (0-19) and 1038/2 (3-14) has lapsed. A similar declaration is sought in respect of Award No. 18/1987-1988 dated 05.06.1987 in respect of the petitioners' land comprised in khasra nos. 2916/2147/1044 (1-01). The total extent of the petitioners' land in all the above khasras is 21 bighas 05 biswas in village Tughlakabad, Delhi.

3. The petitioner had also filed this petition in respect of khasra no. 454 (0-07) but that does not form part of any award and therefore is clearly outside the acquisition proceedings.

4. The respondents claimed that possession of khasra nos. 2021/956, 979 min was taken on 24.02.2004 and the possession of land falling in khasra nos. 2749/801, 803, 902, 1854/888 and 1846/760 was taken on

16.03.20014. This is, however, disputed by the petitioners who insist that the physical possession is with them and was never taken by the land acquiring agency. With regard to khasra nos. 2777/1922/972, 1130/1 and 1038/2, it is admitted that possession could not be taken. Possession was also admittedly not taken in respect of khasra nos. 2916/2147/1044. As regards compensation it is an admitted position that the same has not been paid to the petitioners.

5. 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.

6. 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.

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

BADAR DURREZ AHMED, J

AUGUST 08, 2016
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ASHUTOSH KUMAR, J