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

% Judgment delivered on: 08.03.2016

+ **W.P.(C) 5210/2015 & CM 9459/2015**

ZIKRU REHMAN KHATRI AND ORS Petitioners

versus

GOVT. OF NCT OF DELHI AND ANR Respondents

Advocates who appeared in this case:

For the Petitioners : Mr D.P.Singh with Mr Aman Mudgal, Ms Nidhi Dalal
For the Respondent DDA : Mr Dhanesh Relan with Mr Arush Bhandari and Ms
Akshita Manocha.
For the Respondent L&B : Mr Siddharth Panda

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit handed over by Mr Siddharth Panda on behalf of respondent No.1 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 the land in question is deemed to have lapsed. The present petition is concerned with Award No.14/1987-88 dated 26.05.1987, inter alia, in respect of the petitioners' lands comprised in khasra nos. 741 (5-0), 742 (3-8), 743 (2-7), 744 (2-10), 745 (4-10), 746 (4-3), 747 (5-8) and 748 (1-13) measuring 28 bighas 19 biswas in all in village Satbari, Delhi.

3. It is the case of the respondents that possession of khasra nos. 741, 746, 747 and 748 was taken on 14.07.1987. However, possession in respect of the remaining khasra nos. i.e. 742, 743, 744 and 745 could not be taken. It is, however, the case of the petitioners' that physical possession of the entire land is with them and that the land acquiring agency has not taken actual physical possession of the subject land.

4. Insofar as the question of compensation is concerned, the same has admittedly not been paid to the petitioners but according to the respondents the same has been deposited in the treasury. Such a deposit, without any offer having been made to the petitioners would not amount

to payment of compensation as held by the Supreme Court in **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183.

5. We need not go into the controversy with regard to physical possession insofar as some of the khasra nos. are concerned because it is clear that the Award was made more than five years prior to the commencement of the 2013 Act and that compensation has also not been paid to the petitioners. Thus, all the necessary ingredients for the application of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in, inter alia, 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 which had been initiated under the 1894 Act in respect of the subject land 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

MARCH 08, 2016

SANJEEV SACHDEVA, J

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