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

% Judgment delivered on: 12.01.2016

+ **WP(C) No.7518/2015**

**S.SOHAN SINGH (DECEASED) THROUGH LR (AS PER AMENDED
MEMO OF PATIES) HARBIR SINGH SAWHNEY THROUGH HIS
SON AND POA HOLDER HARASHPAL SINGH
SAWHNEY** Petitioner

versus

UNION OF INDIA & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner	:	Mr Vikas Mehta and Mr Rajat Sehgal
For the Respondent L&B/LAC	:	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 SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The counter-affidavit on behalf of the respondent No.5/Land Acquisition Collector (South) is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit inasmuch all the necessary averments are contained in the writ petition.

2. 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. 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.21/1989-90 dated 16.10.1989 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos.357 (58-16) 358 (41-04) measuring 100 bighas in all in village Ladha Sarai, Mehrauli, New Delhi, shall be deemed to have lapsed.

3. The stand of the respondents is that physical possession of the said land was taken on 01.10.2004. This is disputed by the petitioner, who claims to be in actual physical possession of the subject land.

4. Insofar as question of compensation is concerned, the same has not been paid to the petitioner but, according to the respondents, the same has been deposited in the treasury, which does not amount to payment of compensation as interpreted by the Supreme Court in **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors.** : (2014) 3 SCC 183.

5. Without going into the controversy with regard to the physical possession, this much 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 petitioner. Under similar circumstances, the Supreme Court, in a recent decision, in the case of **Rattan Singh v. Union of India and Another** (Civil Appeal No.2851/2009) and another connected matter decided on 08.12.2015, held that where compensation was neither paid nor deposited in the appropriate Court, the retention of it by the Land Acquisition Collector would not amount to compensation being paid to them and even if there was an issue with regard to physical possession of the subject land, the said issue need not be gone into inasmuch as the award was made more than five years prior to the commencement of the 2013 Act and the compensation had not been paid.

6. 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 the following cases stand satisfied:-

- (1) **Union of India and Ors v. Shiv Raj and Ors**: (2014) 6 SCC 564;
- (2) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors**: Civil Appeal No. 8700/2013 decided on 10.09.2014;
- (3) **Surender Singh v. Union of India & Others**: WP(C) 2294/2014 decided on 12.09.2014 by this Court; and

(4) **Girish Chhabra v. Lt. Governor of Delhi and Ors:**
WP(C) 2759/2014 decided on 12.09.2014 by this Court.

7. The learned counsel for the respondents submitted that the late Shri Sohan Singh had challenged the acquisition proceedings under the 1894 Act on the ground that subject lands had been purchased in an auction by him subsequent to a Notification dated 28.10.1957 under Section 12 of the Disabled Persons (Compensation and Rehabilitation) Act, 1954 for re-settlement of disabled persons during the partition. He submitted that although the challenge was rejected by the High Court, the matter was pending before the Supreme Court. It was, therefore, contended that the petitioner is, on the one hand, challenging the proceedings under the 1894 Act and, on the other hand, is attempting to seek the benefit of Section 24(2) of the 2013 Act on the ground that the proceedings under the 1894 Act have lapsed. He submitted that this amounts to taking a contradictory stand. In response to this, the learned counsel for the petitioner submitted that an application being IA No.7/2015 was filed in Civil Appeal No.5928/2007 (S.Sohan Singh(D) by LRs v. Union of India & Ors) pending before the Supreme Court for a declaration that the acquisition proceedings under the 1894 Act had lapsed on coming into operation of

the 2013 Act. The Supreme Court by its order dated 13.07.2015 permitted the petitioner to withdraw the said IA No.7/2015 with liberty to approach an appropriate forum for appropriate relief. Pursuant to the permission granted by the Supreme Court, the present writ petition was filed. He, therefore, submitted that there was no impediment to the claiming of reliefs, as prayed for in this writ petition. We agree with the submission made by the learned counsel for the petitioner particularly because the Supreme Court granted the petitioner liberty, as indicated above.

8. As a result, the petitioner is 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.

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

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

JANUARY 12, 2016
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