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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 14.09.2016

W.P.(C) 7324/2015 & CM 13445/2015

DR INDU ARORA

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Sumeer Sodhi with Mr Varun Tankha & Arjun Nanda

For the Respondent DDA : Mr Dhanesh Relan

For the Respondent L&B/LAC: Mr Yeeshu Jain with Ms Jyoti Tyagi

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

J U D G M E N T

BADAR DURREZ AHMED, J (ORAL)

1. The counter affidavit handed over by the learned counsel for the respondent no.4 is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit and places reliance on the averments already made in the writ petition.

2. By way of this writ petition the petitioner is 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 petitioner, consequently, seeks 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. 60/1971-72(Suppl.) dated 31.03.1977 was made, *inter alia*, in respect of the petitioner's land comprised in Khasra Nos. 455/192/2/5 (0-17) (to the extent of ½ share therein) in village Gharonda Neem Ka Bangar, Delhi, shall be deemed to have lapsed.

3. While the petitioner claimed that neither physical possession of the subject land has been taken by the land acquiring agency, nor has any compensation been paid to the petitioner, these facts are controverted by the respondents and, in particular, by the respondent no.4. It is the case of the said respondent no.4 that possession of the subject land was taken on 01.10.1976 and has been handed over to the DDA on the spot for the planned development of Delhi. On the other hand, the learned counsel for the petitioner has drawn our attention to page 40 of the paper book which is a copy of a letter written by the Station House Officer of police station Pandav Nagar, Delhi, clearly indicating that the subject property was taken on rent

for the said police station from, *inter alia*, the petitioner and that vacant possession was being offered to the petitioner inasmuch as a separate police station had been constructed. This letter was written on 06.03.2014. Clearly, therefore, physical possession of the subject land was not with the Land Acquisition Collector or with the DDA.

4. It is also stated by the petitioner that no compensation was received in respect of the subject land. The counter affidavit which has been furnished on behalf of the respondent no.4 indicates that the compensation register was missing and thus the status as to the payment of compensation could not be ascertained. However, efforts were being continued to trace the said register. It is also stated in the said affidavit that there is no entry regarding payment of compensation in the *naksha muntzamin*. In view of this, there is no evidence on record to contradict the plea taken by the petitioner that compensation has not been paid in respect of the subject land. Therefore, the present case is clearly one where neither physical possession of the subject land was taken by the land acquiring agency nor has any compensation been paid to the petitioner. 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.

5. 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 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

ASHUTOSH KUMAR , J

SEPTEMBER 14, 2016

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