

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

% Judgment delivered on: 21.01.2016

+ W.P.(C) 7678/2015 and CM No. 14985/2015

BHUSHAN NANGIA AND ORS.

.... Petitioners

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Rajiv Kumar Ghawana

For the Respondent Nos. 1&2: Mr B. Mahapatra for Mr Yeeshu Jain

For the Respondent Nos. 3 : Mr Dhanesh Relan and Mr Arush Bhandari

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The learned counsel for the DDA states that he has filed the counter affidavit yesterday. The same is not on record. He has handed over a copy of the said counter affidavit which we are taking on record. The registry is directed to take the original counter affidavit filed yesterday on record. The learned counsel for the petitioners does not wish to file any rejoinder affidavit and reiterates the contents of the writ petition in response to the counter affidavits of the respondents.

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. 63/1982-83 dated 31.01.1983 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 321 measuring 2 bighas 14 biswas in all in village Pul Pehladpur, New Delhi, shall be deemed to have lapsed.

3. Though the respondents claimed that possession of the said land was taken on 07.04.2004, the petitioners dispute this and maintain that physical possession has not been taken. However, insofar as the issue of compensation is concerned, the petitioners' case is that compensation has neither been offered nor paid to the petitioners nor their predecessor-in-interest. The learned counsel for the respondents state that the compensation has not been paid because of some dispute. Details of the dispute have not been given. It is also not stated that the money was deposited with the court under Section 31 of the 1894 Act. Therefore, in

these circumstances the averments made by the petitioners would have to be accepted and which means that compensation has not been paid.

4. 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.

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 land 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

JANUARY 21, 2016
SU

SANJEEV SACHDEVA, J

