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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 04.10.2016

+ **W.P.(C) 8298/2015**

MUKESH JAIN

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Ms Richa Oberoi with Mr APS Sehgal
For the Respondent UOI	: Mr Chiranjiv Kumar
For the Respondent L&B	: Mr Siddharth Panda
For the Respondent DDA	: Mr Himanshu Rewatkar for Mr Sushil Dutt Salwan

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 learned counsel for the petitioner states that this matter is covered by the decision of this Court in the case of **Girish Chhabra vs. Lt. Governor of Delhi and Ors.**: W.P.(C) 2759/2011 decided on 12.09.2014. He states that although possession of the subject land has been taken, the award under

the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') was made more than five years prior to the commencement 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. In this case Award No.12/1987-88 was made on 20.05.1987. He also states that compensation has not yet been paid to the petitioner. Therefore, the requirements of section 24(2) of the 2013 Act have been fulfilled and the petitioner is entitled to a declaration that the subject acquisition under the 1894 Act has lapsed. The land in question is situated in village Neb Sarai, Delhi, in Khasra No. 389 min (1-04) measuring 1 bigha 4 biswas in all.

2. Admittedly, physical possession of the subject land was taken on 05.09.2005. However, as per the petitioner no compensation has been received in respect of the said land. On the other hand, the learned counsel for the respondents submit that Statement A is not available and therefore he would not be in a position to say as to whether compensation has been paid or not. As a result, it will have to be taken that the statement made by the petitioner to the effect that no compensation has been paid is correct.

Consequently, the decision of this court in **Girish Chhabra** (*supra*) applies on all fours and the subject acquisition has lapsed.

3. The writ petition is allowed by declaring that the acquisition in respect of the subject land has lapsed. There shall be no order as to costs.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

OCTOBER 04, 2016
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