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THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 23.02.2016

+ **W.P.(C) 8374/2015**

M/S RYAN CONSTUCTION PVT LTD.

... Petitioner

versus

GOVERNMENT OF NCT OF DELHI & ORS

... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr B.S.Maan
For the Respondent No.2 : Mr Pawan Mathur and Mr Himanshu Gupta
For the Respondent/L&B/LAC: Mr Siddharth Panda
For the Respondent/DDA : Ms Mrinalini Sen and Ms M.Chatterjee

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE R.K.GAUBA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

W.P.(C) 8374/2015 & CM No.17812/2015(stay)

1. The counter-affidavit handed over by Mr Siddharth Panda, the learned counsel on behalf of respondent Nos.1 & 2, is taken on record.

The learned counsel for the petitioner does not wish to file any rejoinder-affidavit and reiterates the averments made in the writ petition in response to the said counter-affidavit.

2. By way of this writ petition, 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. 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. 15/1987-88 dated 05.06.1987 was made, *inter alia*, in respect of the petitioner’s land, comprised in Khasra Nos. 1785/1-2 min measuring 1 bigha in all, in village Chattarpur, New Delhi, shall be deemed to have lapsed.

3. In this case, it has been admitted by the concerned Land Acquisition Collector that physical possession of the subject land has not been taken. This is evident from the counter-affidavit filed on behalf of the concerned Land Acquisition Collector. It is, however, contended by the learned counsel for the respondents that the amount of compensation

in respect of the same was deposited in the treasury, though the same has not been paid to the land owner nor was it offered to the land owner.

4. That being the position, the question of payment of compensation will have to be construed in the light of the various decisions rendered by the Supreme Court and this Court in:-

- (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.

In **Pune Municipal Corporation** (*supra*) it has been held that unless and until the compensation was tendered to the persons interested, mere deposit of the compensation amount in a court would not amount to payment of compensation. This aspect has also been considered in **Gyanender Singh & Others v. Union Of India & Others:** WP (C) 1393/2014 decided by a Division Bench of this Court on 23.09.2014. Consequently, the mere deposit in the treasury, without being offered or

tendered to the persons entitled would not ipso facto amount to payment of compensation.

5. The learned counsel for the respondents had also raised the objection that the present petition would not be maintainable because the petitioner is a subsequent purchaser. Though, under the 1894 Act, the Supreme Court has held that a subsequent purchaser would not have a right to challenge the acquisition and would only have a right to compensation, in the present petition the challenge is not to the acquisition proceedings but, the petition is one whereby a declaration is being sought of rights which accrued to the petitioner by virtue of the deeming provision of Section 24(2) of the 2013 Act. Once the acquisition has lapsed because of the triggering of the deeming provision of Section 24(2) of the 2013 Act, the benefit of the same cannot be denied to the petitioner on the ground that he is a subsequent purchaser.

6. As such, in the present case, neither physical possession of the subject land has been taken nor has any compensation been paid to the petitioner. The Award was made more than five years prior to the coming into force of the 2013 Act.

7. Consequently, 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.

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

BADAR DURREZ AHMED, J

R.K.GAUBA, J

FEBRUARY 23, 2016
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