

\$~61

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

% Judgment delivered on: 12.07.2016

+ **W.P.(C) 8857/2015 & CM No.19843/2015**

DEEPAK TYAGI & ORS. Petitioners

versus

UNION OF INDIA Respondent

Advocates who appeared in this case:

For the Petitioners : Mr Anuroop P.S.

For the Respondents : Mr Yeeshu Jain with Ms Jyoti Tyagi.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. 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.18/2003-04 dated 31.10.2003 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos.96//99/1 (4-02) and

96//99/2 (0-14) measuring 4 bighas 16 biswas in all in village Holambi Kalan shall be deemed to have lapsed. Admittedly possession of 12 biswas of land in Khasra No.96//99/1 was not taken by the Land Acquiring Agency. In respect of the balance land, that is, 4 bighas and 4 biswas, though the respondents claimed that possession thereof was taken on 13.12.2002, the petitioners dispute this and maintain that physical possession has not been taken. However, insofar as the issue of compensation is concerned, it is an admitted position that it has not been paid.

2. Without going into the controversy of physical possession in respect of the said 4 bighas and 4 biswas of land, 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.

3. 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.

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

BADAR DURREZ AHMED, J

JULY 12, 2016
ab

ASHUTOSH KUMAR, J