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

% Judgment delivered on: 29.11.2016

\+ **WP(C) No. 10223/2015**

MEHAR CHAND SHARMA AND ORS .... Petitioners

versus

UNION OF INDIA & ORS ..... Respondents

Advocates who appeared in this case:

For the Petitioner :Mr Raj Bahadur Singh
For the Respondent L&B/LAC :Mr Yeeshu Jain and Ms Jyoti Tyagi
For the Respondent DDA : Mr Sanjeev Sabharwal & Ms Shobhna Takiar
For the Respondent DMRC : Mr R.V. Sinha
For the Respondent UOI : Mr Rajesh Mishra with Mr Manuj Kaushik

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE JAYANT NATH

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, which is the subject- matter of the present petition, ought to be deemed to have lapsed in view of the Section 24(2) of the 2013 Act.

2. The number of the award is 21/1992-93 and is dated 18.06.1992. It

is in respect of, *inter alia,* the petitioners' land comprised in Khasra No.435 (5-14) measuring 5 bighas 14 biswas in village Jasola, Delhi. Admittedly, physical possession of the subject land was taken on 19.01.2006 and the said land has been utilized by the respondents. Admittedly, compensation has not been paid to the petitioners.

3. Although physical possession of the subject land has been taken, compensation has not been paid to the petitioners and the award is also made more than five years prior to the commencement of the 2013 Act. Consequently, all the necessary ingredients of Section 24(2) of the 2013 Act, as interpreted by the Supreme Court and this Court in the following decisions, 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*****: 2015 (3) SCC 353**;

(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.

4. The inevitable conclusion would be that the acquisition proceedings would have to be declared as having lapsed. But, the learned counsel for the petitioners submits that as the land has already been utilized, the petitioners are not claiming the return of the land and would

be satisfied, if compensation is given to the petitioners under the 2013 Act. This is a fair and very reasonable approach adopted on behalf of the petitioners. It also enables the respondents to retain the land for the purpose for which it was sought to have been acquired without going through an entirely new acquisition process. Therefore, we direct that the compensation be paid to the petitioners in terms of the 2013 Act. The same be done within six months.

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

BADAR DURREZ AHMED, J

JAYANT NATH, J

NOVEMBER 29, 2016
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