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

% Judgment delivered on: 02.05.2016

+ **W.P.(C) 10648/2015**

SHIV LAL & ORS

.... Petitioners

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Rajiv Kumar Ghawana, Advocate.

For the Respondents : Mr Arun Birbal for the DDA.

: Mr Yeeshu Jain for L&B/LAC.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

W.P.(C) 10648/2015 & CM No.27255/2015(stay)

1. The counter-affidavit handed over by Mr Siddharth Panda on behalf of respondent Nos.1 & 2 is taken on record. The learned counsel for the petitioners does not wish to file any rejoinder-affidavit and reiterates the contents of the writ petition.

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. 21/1992-93 dated 18.06.1992 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No.409 min measuring 10 biswas in village Jasola, New Delhi, shall be deemed to have lapsed.

3. Though the respondents claimed that possession of the said land was taken on 16.07.2007, 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. The stand of the respondents, however, is that the Statement 'A' is not traceable and therefore the respondents are not in a position to specifically state as to whether the compensation has been paid or not. In these circumstances the averments made by the petitioners would have to be accepted and that 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

MAY 02, 2015/'sn'

SANJEEV SACHDEVA, J