

\$~43

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 02.08.2016

W.P.(C) 12057/2015 & CM 32017/2015

CHANCHAL MITTAL

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr D.V. Khatri
For the Respondent for UOI	: Mr Jasmeet Singh with Ms Gayatri Aryan
For the Respondent LAC	: Mr Yeeshu Jain with Ms Jyoti Tyagi
For the Respondent DDA	: Mr Deepak R. Dahiya for Mr Padam Kant Saxena

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 counter affidavit handed over by Mr Yeeshu Jain on behalf of the respondent no.4 is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit as the necessary averments are contained in the writ petition.

2. By way of this writ petition the petitioner is seeking 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.28/2003-04 dated 17.02.2004 was made, *inter alia*, in respect of the petitioner's land comprised in khasra no. 47/5 min measuring 1 bigha in village Mamoorpur, Narela, Delhi, shall be deemed to have lapsed.

3. It is an admitted position that neither physical possession of the subject lands has been taken by the land acquiring agency, nor has any compensation been paid to the petitioner. The award was made more than five years prior to the commencement of the 2013 Act. All the ingredients of section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following decisions stand satisfied:-

- (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.

4. As a result 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.

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

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

AUGUST 02, 2016

kb