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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 24.01.2017

+ **W.P.(C) 1442/2015 & CM No.2536/2015**

RAMESHWAR SINGH TANWAR & OTHERS ... Petitioners

versus

UNION OF INDIA AND OTHERS ... Respondents

Advocates who appeared in this case:-

For the Petitioners	: Mr S.K. Rout with Mr Pawan Kumar
For the Respondents	: Mr Yeeshu Jain with Ms Jyoti Tyagi for L&B/LAC
For the Respondent/DDA	: Mr Dhanesh Relan with Ms Isha Garg

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.1 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. By way of this writ petition the petitioners are 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 petitioners, consequently, seek 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.1717/1964 dated 20.07.1964 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra No. 2341 measuring 4 bighas 14 biswas in Village Basai Dara Pur shall be deemed to have lapsed.

3. In the counter-affidavit filed on behalf of the Land Acquisition Collector, it is admitted that the physical possession of the land was not taken. On the other hand, the counsel for the DDA submits that the land is in their possession. This is, however, of no consequence because the land acquiring agency is the one that takes over the possession. Since the Land Acquisition Collector has not taken over possession of the subject land, there is no question of the DDA claiming possession over the same. In this context, the statement of the petitioners that they continue to be in physical possession of the land has to be accepted.

4. Insofar as compensation is concerned, it is pointed out by the learned counsel for the LAC that the compensation amount had been assessed at Rs

13,512/- and the same had been deposited in the Reference Court as far back as on 16.02.1965. In response to this, the learned counsel for the petitioners submits that earlier he had moved an application for execution claiming the compensation amount. That was numbered as Execution Petition No.9/2013. In that case, which was before the ADJ-02 (West)/Delhi, a status report had been called for from the LAC(West). As per the report dated 18.02.1978, Khasra No.2341 was not mentioned in the possession proceedings which implied that possession had not been taken.

5. Based on the statement and report of the LAC, the petitioners sought permission to withdraw the Execution Petition which permission was granted by the ADJ-02(West)/Delhi on 27.08.2015. The counter-affidavit of the respondent No.1, the certified copy of the statement of the LAC (West) and the certified copy of the order dated 27.08.2015 of the ADJ-02(West)/Delhi are taken on record.

6. It is, therefore, clear that neither physical possession of the subject land has been taken by the land acquiring agency nor has any compensation been paid to the petitioners. 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.

7. 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 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

ASHUTOSH KUMAR, J

JANUARY 24, 2017

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