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

DECIDED ON : JULY 13, 2017.

+ **W.P.(C) 4721/2002**

ATTAR SINGH & ANR.

..... Petitioners

Versus

UOI & ORS.

..... Respondents

+ **W.P.(C) 436/2003**

GAJRAJ SINGH

..... Petitioner

Versus

UOI & ORS.

..... Respondents

Through : Mr.Sumit Bansal with Ms.Richa Oberoi
and Mr.Prateek Kohli, Advocates for
the petitioners in Item No.12.

Mr.Saroj Bidawah, Advocate, for UOI
in Item No.12 and 13.

Mr.Yeeshu Jain, Standing Counsel with
Ms.Jyoti Tyagi, Advocate for
L&B/LAC.

Ms.Shobhana Takiar, Advocate, for
DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S. RAVINDRA BHAT, J. (OPEN COURT)

1. In these proceedings, the petitioners had originally sought for quashing of the acquisition of lands which are located at Revenue Estate of village Pochanpur and village Holambi Kalan. The petitioners in W.P.(C) 4721/2002 claim to be the owner of Khasra Nos.12/11(4-6), 12/1(3-7), 12/2(1-9), 19(4-16), 20/1(0-7), 22(4-16), 23/1(1-12) and 27(0-10) situated in the Revenue Estate of Village Pochanpur, Delhi. The petitioner in W.P.(C)436/2003 claims to be owner of Khasra No.96/99/1 (4-2) and 99/2(0-14) of Rectangle No.96, situated in the Revenue Estate of village Holambi Kalan.

2. When these Writ Petitions were originally entertained, the court had granted status quo order restraining the respondents from dispossessing the petitioners from the properties.

3. In W.P.(C) No.4721/2002, the lands were sought to be acquired vide Notifications No.F.10(3)/96/L&B/LA/13417 dated 13.12.2000 under Section 4 and declaration No.F.10(3)/96/L&B/LA/14062 dated 7.12.2001 under Section 6 of the Land Acquisition Act. In W.P.(C) No.436/2003, Notification No.F.10(4)/97/L&B/LA/7329 under Section 4 and declaration No.F.10(32)/96/L&B/LA/6752 under Section 6 of the Land Acquisition Act were issued on 22.08.2001 and 5.7.2002 respectively. This was followed up by the publication of Award No.18/03-04 dated 30.10.2002. The declaration issued under Section 24(2) confined to the petitioners' land in both the matters. The acquisition proceedings terminated with the publication of Award No.30/2002-03.

4. During the pendency of these proceedings, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation

and Settlement Act, 2013 was enacted and brought into force w.e.f. 1.1.2014. The petitioners confined their submissions for declaring the acquisition proceedings lapsed under Section 24 (2) of the Act. Section 24 of the said Act reads as follows:

“24.(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 –

(a) Where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) Where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

5. Learned counsel for the petitioners submitted that with the advent of the New Act and on account of the judgments of the Supreme Court, in *Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki & Ors.* (2014) 3 SCC 183 and *Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu & Others*, Civil Appeal No.8700/2013 decided on 10.09.2014, the petitioners were entitled for the declaration. The Supreme Court expressed its opinion as follows:

“8. 2013 Act puts in place entirely new regime for compulsory acquisition of land and provides for new scheme for compensation, rehabilitation and resettlement to the affected families whose land has been acquired or proposed to be acquired or affected by such acquisition.

9. To turn, now, to the meaning of the expression “compensation has not been paid” in Section 24(2) of the 2013 Act and its effect on the subject acquisition, it is necessary to refer to Section 24 which reads as follows:

“24. (1) Notwithstanding anything contained in this Act, in any case of land acquisition W.P.(C.) No.2299/2002 Page 7 of 11 proceedings initiated under the Land Acquisition Act, 1894, -

(a) Where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) Where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in subsection (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award

under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holding has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

6. The Division Bench of this Court in W.P.(C)No.2299/2002 tilted *Santosh Singh & Ors.vs.UOI & Ors*, decided on 13.11.2014, held after overall consideration of the provisions of new Act-New Section 19, 24(2) and Section 69, that the situation where interim orders were made by the court too would fall within the ambit of Section 24(2). In *Santosh Singh & Ors* (Supra) it was held as follows:

“A close analysis of the above provisions would reveal that Section 19 enables the acquisition process by the appropriate Government issuing a declaration, Section 19 (6) is an important exception in that it imposes a limitation on the power itself (i.e limitation for making declaration). In case the time limit is not adhered to, the acquisition lapses. The proviso to Section 19 (6) recognizes that sometime Court intervention by interim orders impede the appropriate Government from issuing declarations. Section 69 (2) enables increased compensation; yet, the explanation provides that if the landowner secures an interim order, the period spent in litigation, particularly when the interim order subsists, cannot be given benefit to him while calculating interest. Thus,

limitation of power freshly conferred or created by the Act does not follow a uniform pattern. The object of the provision in question defines how the allusion to interim orders of court are dealt with. However, Section 24 (2) is a special provision that but for its enactment, would have resulted in the operation of the General Clauses Act, 1897 in that all action taken under the old law would have been preserved. It therefore had to be construed in the context of the old enactment which clearly contemplated exclusion of time at the different stages when interim orders subsisted (i.e to make declaration after preliminary notification and also extended period for making the award). These perspectives are indicative of a contrary interpretation. However, this Court notices that the ruling of the Supreme Court on this aspect is decisive; it consequently binds it.”

7. Admitted position is that the possession of the suit lands has not been taken so far. The facts of the present case, in the opinion of the Court, are covered by the ruling in **Sree Balaji Nagar Residential Association** (supra) as followed by **Santosh Singh & Ors** (Supra) by a Division Bench of this Court.

8. Consequently, the Writ Petitions succeed. The declaration is issued that the acquisition of the suit lands is deemed to have lapsed under Section 24(2) of the Act.

9. At this stage, this Court is also informed that decision in **Santosh Singh & Ors.** and several other judgments have been referred to a Larger Bench of the Supreme Court, to examine the correctness of the view taken by the **Pune Municipal Corporation and Sree Balaji Nagar Residential Association** (supra), with respect to inclusion of time under Section 24(2) wherever status quo or interim orders were made for the purpose of possession, nature and title of the suit property under Section

24(2). In the circumstances, this Court is of the opinions that even while declaring the acquisition to have lapsed under Section 24(2), in the present cases, the ultimate decision in those appeals would be abided by the parties in these proceedings.

**S. RAVINDRA BHAT
(JUDGE)**

**S.P.GARG
(JUDGE)**

JULY 13, 2017/sa

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