

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

% Date of decision: December 12, 2017

+ W.P.(C) 4060/2013

SURESH KUMAR & ORS.

..... Petitioner

Through: Mr. Somit Khosla, Adv. with Mr.
Varun Mehlawat & Mr. Anuj Jain,
Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Adv. with
Mr. Sunil Kumar Jha & Mr. Kushal
Raj Tater, Adv. for
L&B/LAC/GNCTD
Mr. Ajay Verma, Sr. SC with Ms.
Diviani Khanna, Adv. for DDA

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S. SISTANI, J. (ORAL)

1. The petitioner seeks a declaration that the acquisition proceedings with respect to 6 bigha of land of the petitioner comprised in Khasra No. 301 situated in the Revenue Estate of Village Shahbad, Daulatpur, Delhi stands lapsed, as the compensation has not been paid.

2. At the outset, learned counsel for the petitioner submits that the petitioner would only seek compensation under the Act of 2013 as, according to the stand taken by the respondents, the possession of the land has been taken over and put to use.

3. The necessary facts to be noticed for disposal of this writ petition are that a Section 4 Notification was issued on April 28, 1995 for the Rohini Residential Scheme, Phase-IV, Section 6 Notification was issued on April 26, 1996, Award No. 1/1998-99 was declared on 24th April, 1999. It may also be noted that during the pendency of this writ petition, an application for amendment of the writ petition was filed, which was allowed. Para 16 of the counter affidavit filed by the LAC reads as under:-

“16. That, it is humbly submitted that out of total land comprised in 301 (27-01), 22 bigha and 01 biswa pertains to gaon sabha. As regards possession, it is humbly submitted that out of these lands, possession of the land comprised in khasra Nos. 301 (6-00) was taken on 26.11.2012. So far as compensation is concerned it is humbly submitted that compensation has not been paid. It is further submitted that name of the petitioner Nos. 5,6, 7 are not found in the award and hence they have no right to challenge this acquisition proceedings.”

4. Based on the averments made, the counsel for the petitioner prays that the petitioner may be granted compensation as per the New Act.

5. Learned counsel for the LAC submits, as far as the payment of compensation is concerned, the names of petitioner Nos. 5, 6 and 7 are not found in the Award, hence they have no right to challenge the acquisition proceedings. A similar stand has been taken by the DDA. Mr. Verma draws the attention of the Court to paragraphs (iv) of the counter affidavit in support of his contention that the possession of the land has been taken over and handed over to the DDA on 26th November, 2012.

6. In response to the objection raised by the respondents, counsel for the petitioner submits that the petitioner Nos. 5, 6 and 7 had purchased the land in question prior to the issuance of the Notification. The petitioner Nos. 1 to 4 would have no objection if the compensation is awarded to them as they are the rightful owners. It is also pointed out that the name of the father of petitioner No. 5 namely Sh. Satish Kumar finds mentioned at Sl. No. 178 of the Award.

7. We have heard the learned counsel for the parties. In our view, the case of the petitioner would be covered by the decision rendered by the Supreme Court in the case of *Pune Municipal Corporation & Anr. V. Harak Chand Misiri Mal Solanki & Ors. (2014) 3 SCC 183* as the compensation admittedly qua the land of the petitioners has not been tendered.

While the declaration is issued that the acquisition proceedings stands lapsed, however, as prayed by the petitioners, the petitioners would only be entitled to compensation as per the Act of 2013. Resultantly, the writ petition is allowed. The compensation shall be paid within a period of not later than one year. No costs.

CM No. 3881/2015 (for direction)

In view of the order passed in the writ petition, the application is disposed of.

G.S.SISTANI, J

V. KAMESWAR RAO, J

DECEMBER 12, 2017/ak