

\$~36

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

% *Date of Judgment: 13<sup>th</sup> November, 2017*

+ W.P.(C) 3436/2016

ASHEY RAM & ANR ..... Petitioners

Through Mr.Jitender Chaudhary, Mr.Romil  
Pathak, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS ..... Respondents

Through Mr.Sanjay Sabharwal, Standing  
Counsel for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**G.S.SISTANI, J. (ORAL)**

1. Counter affidavit has been filed by DDA. Counter affidavit filed by LAC has been handed over in Court, copy of which, has been supplied to counsel for the petitioner.
2. With the consent of counsel for the parties, present writ petition is set down for final hearing and disposal.
3. This is a petition filed under Article 226 of Constitution of India by the petitioners seeking a writ of mandamus and a declaration that the acquisition proceedings in respect of land comprised in Khasra nos.76 & 80 situated in the revenue estate of village Gazipur, Delhi measuring 8 bighas 16 biswas in Khasra no.76 and 4 bigha and 9 biswas in Khasra no.80 (hereinafter referred to as the 'subject land') (acquired vide award

no.93/86-87 and 94/86-87), to have lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (hereinafter referred to as 'New Act').

4. Learned counsel for the petitioner submits that neither possession of the subject land has been taken over nor compensation has been paid to the petitioners. Counter affidavit filed on behalf of L&B/LAC also confirms the averments made by the counsel for the petitioners. Paras 8 and 10 of the counter affidavit filed by L&B/LAC read as under :-

*“8. That in the present case, as per available records the possession of land could not be taken over. It is respectfully submitted that the compensation of the land could not be disbursed to the interested persons.*

*10. That in the present case, as per available records the possession of land could not be taken over. It is respectfully submitted that the compensation of the land could not be disbursed to the interested persons.”*

5. Since neither the compensation has been paid nor possession has been taken over and the award having been announced more than five years prior to the commencement of the New Act, in our view, the case of the petitioners is fully covered by the decision rendered by Supreme Court of India as well by this Court in the following cases :-

- (i) *Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183;***
- (ii) *Union of India and Ors v. Shiv Raj and Ors., reported at (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;***

(iv) **Surender Singh v. Union of India & Others,**  
**W.P.(C).2294/2014** decided on 12.09.2014 by this Court; and

(v) **Girish Chhabra v. Lt. Governor of Delhi and Ors;**  
**W.P.(C).2759/2014** decided on 12.09.2014 by this Court.

6. Resultantly, the writ petition is allowed. The acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is so declared.

**CM No.14699/2016**

7. The interim order dated 26.04.2016 is confirmed.

8. Application stands disposed of.

**G.S.SISTANI, J**

**V. KAMESWAR RAO, J**

**NOVEMBER 13, 2017/ck**