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

DECIDED ON : AUGUST 16, 2017

+ **W.P.(C) 3137/2015 & CM APPL.5592/15, 19841/16**

KAJAL JOLLY & ORS.

..... Petitioners

Through : Mr.Rajesh Gupta with Mr.Harpreet
Singh and Mr.Mool Chand Verma,
Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Mr.Yeeshu Jain, Standing Counsel with
Ms.Jyoti Tyagi, Advocate for
L&B/LAC.
Mr.Parvinder Chauhan, Advocate, for
NDMC.
Mr.Rajesh Kumar with Ms.Santwana,
Advocates for UOI.
Mr.Dhanesh Relan with Ms.Akshita,
Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

S. RAVINDRA BHAT, J. (OPEN COURT)

1. The matter was originally listed on 14.08.2017. Since 14.08.2017 was declared a court holiday, this matter is listed today.
2. The petitioners claim the relief similar to the one granted by this Court in W.P.(C)8989/2014 (*N.K.Bakshi & Ors.vs.Union of India & Ors.*). It is stated that the acquisition made through the notification

published on 26.04.2013 is contrary to The Land Acquisition Act, 1894 (hereinafter referred as 'Act'). The respondents seek a directions for its quashing and consequential direction that they should be directed/restricted from dispossession of the land i.e.in land Khasra No.260, 261 and 264 min falling in the revenue estate of Village Shahbad Daulatpur, Delhi (hereinafter as 'suit land').

3. Brief facts of the case are that notification issued on 28.04.1995 by the Lieutenant Governor sought to acquire the land for the purpose of Phase-IV, Rohini Residential Scheme. The notification also invoked the urgency clause of Section 17(4) of the Act.

4. Two petitions i.e. W.P.(C)3938/1996 and W.P.(C) 5525/2000 were filed. This Court quashed the invocation of the urgency clause under Section 17(4) of the Act. This meant that appropriate government have to proceed with at that stage and after hearing, the land owners' objections under Section 5(A), issue the appropriate declaration and then assess the acquired lands to compensation. The High Court rejected the petition, however, the Supreme Court quashed the Notification of 28.04.1995 by an order dated 21.03.2012. The court granted liberty to the competent authority to notify objections under Section 5(A) of the Act pursuant to the Notification of 28.04.1995. The appropriate government on 26.04.2013 issued a declaration under Section 6 of the Act after considering the objections filed before it.

5. Declaration – and subsequent proceedings became the subject matter of challenge in further fresh writ petitions that were decided in common judgment reported in *Sunil Goel vs.State & Ors*, 211 (2014) DLT 382. The court allowed the petitions holding that the acquisitions

had lapsed by virtue of proviso to Section 6(1) of the Act. In *N.K.Bakshi* case (supra), like in the present case, the issue was whether Khasra Nos.261,264 and 265 were covered by the declaration in *Sunil Goel* (supra) case. The court said that the lands were so covered and that the declaration under Section 6(1) could not be issued since the time had lapsed and the entire acquisition, therefore, failed. The court on that occasion observed as below:

“The purported proviso of Section 6(1) of the Act 1894 is clearly well settled. The fact that more than one year period has lapsed between the order passed by Hon’ble Supreme Court and the Notification under Section 6 of the Act establishes that the entirety of the acquisition has lapsed. This plan has been emphasized and repeated time and again by several judgments in the last 15 years. Officially, the petitioners were entitled to the relief because the Supreme Court quashed the dispensing of Section 5(A) of the Act by order dated 21.03.2012. It is clear that the proceedings under Section 6 had to be necessarily issued within a year of that date i.e. on or before 20.03.2013. However, in the present case notification was issued on 26.04.2013. In view of the above, the petitioners’ non-inclusion as petitioner(s) by name before the Supreme Court cannot disentitle them to the relief. This is because the notification now challenged undoubtedly contains the specific reference to Khasra No.261,264 and 265 which belongs to the petitioners. Had the position been otherwise, there is no need for the respondent to have included the petitioner’s land in notification under Section 6 of the Act. In fact in that case, they would have been within their right to acquire the lands on the basis of Urgency clause earlier. It is not their case that compensation was deposited earlier in accordance with

the law or that the possession was taken over on the basis of a valid acquisition.

In these circumstances, the respondent's objections are not sustainable and the writ succeeds and consequential direction is issued. Therefore, the acquisition of the suit land i.e. land in Khasra No.261, 264 and 265 falling in the revenue estate of Village Shahbad Daulatpur, Delhi is deemed to have lapsed. The writ petition is allowed.

6. In the present case it is not in dispute that the petitioners are owners of Khasra No.260, 261 and 264 min falling in the revenue estate of Village Shahbad Daulatpur, Delhi. This petition is clearly covered by the relief clause, that was subject matter of W.P.(C) 3938/1996 which was eventually allowed by the Supreme Court in the common judgment and order dated 21.03.2012. In these circumstances, the Court hereby declares that the acquisition of suit land of Khasra No.260, 261 and 264 falling in the revenue estate of Village Shahbad Daulatpur, Delhi is deemed to have lapsed by virtue of proviso to Section 6(1) of the Act. The writ petition is allowed. All pending application(s) also stand disposed of.

**S. RAVINDRA BHAT
(JUDGE)**

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

AUGUST 16, 2017/sa