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

% *Date of Judgment: 07th November, 2017*

+ W.P.(C) 6351/2016

J.C. MALHOTRA

..... Petitioner

Through Ms.Rachna Agrawal, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr.Arjun Pant, Adv. for DDA.
Ms.Anju Gupta with Mr. Roshan Lal
Goel, Adv. for R-1 & R-2.
Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Adv. for
L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. With the consent of counsel for the parties, present writ petition is set down for final hearing and disposal.
2. This is a petition filed by the petitioner under Article 226 of the Constitution of India seeking a direction to declare the acquisition proceedings with respect to the agricultural land measuring 1 bigha 5 and 3.5 biswas bearing Mustatil / Rect. No.8, Killa / Khasra No.11 min (being part of total land of 4 bighas 12 biswas), situated in the revenue estate of village Devli, Tehsil Hauz Khas, New Delhi (hereinafter referred to as the 'subject

land'), to have lapsed as neither compensation has been paid nor possession has been taken over by the respondents.

3. Learned counsel for the petitioner submits that in this case, two notifications under Sections 4 and 6 of Land Acquisition Act, 1894 were issued on 05.11.1980 and 06.06.1985 respectively. An award bearing no.19/87-88 was made on 05.06.1987. It is the case of the petitioner that from 1980 till date, the respondents have neither tendered the compensation nor deposited the same in the Court in terms of Section 31 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Old Act'). Counsel contends that the actual physical possession of the land is also with the petitioner. Counsel has placed reliance on *Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183*, to contend that since neither compensation has been paid nor possession has been taken over in terms of Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'New Act'), the acquisition proceedings would stand lapsed.

4. In the present writ petition, notice was issued on 25.07.2016, parties were directed to maintain status quo with regard to nature, title and possession of the subject land. No counter affidavit has been filed by LAC till date.

5. As per counter affidavit filed by DDA, the possession of the subject land has not been handed over to the DDA. The relevant part of the counter affidavit filed on behalf of DDA reads as under :-

“(k) It is submitted that the petitioner is claiming to be owners of the land bearing Khasra No.8//11 min. (1-3.5) situated in Village Devli, Tehsil Hauz Khas, Delhi. As per the available

record, the land in question is falls in the Khasra Nos.8//11 (4-12) situated in Village Devli, Delhi and the same was notified under Section 4 on 05.11.1980 and under Section 6 on 6.6.1985 for planned development of Delhi following the due process of law. After notifications under Sections 4 & 6, the land stands acquired vide Award No.19/1987-88. Physical possession of the same has not been handed over to DDA.”

6. Since neither of the two conditions as envisaged in section 24 (2) of the New Act have been met, the present writ petition is allowed. The acquisition proceedings with regard to subject land are deemed to have lapsed. It is ordered accordingly.

7. The writ petition is disposed of in above terms.

CM No.26031/2016

10. Interim order dated 25.07.2016 is confirmed.

11. The application stands disposed of.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 07, 2017/ck