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

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

+ W.P.(C) 6543/2016

DUNGER SINGH TOKAS & ORS. Petitioners

Through Mr.Abhimanyu Singh Khatri, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through Ms.Mrinalini Sen with Ms.Kritika
Gupta, Advs. for DDA.
Mr.Satyendra Kumar, SCGC for R-1.
Mr.Amresh Mathur with Mr.Sumit
Rajput, Advs. for R-2.
Mr.Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha & Mr. Kushal Raj Tater,
Advs. 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. By way of this petition filed under Article 226 of Constitution of India, the petitioners seek a direction to declare the acquisition proceedings with respect to the land of the petitioner measuring 2 bighas comprised in Khasra no.825/2/31 (87-05), situated in the revenue estate of village Mohammadpur, Munirka, Delhi, (hereinafter referred to as the 'subject

land') to have lapsed, in view 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'), as neither compensation has been paid nor possession has been taken over.

3. Learned counsel for the petitioners submits that in this case, two notifications under sections 4 and 6 of Land Acquisition Act, 1894 (hereinafter referred to as the 'Old Act') were issued on 24.10.1961 and 16.12.1965 respectively. An award was made on 24.01.1967.

4. Notice was issued in the matter. Counter affidavit has been filed by LAC.

5. Learned counsel for the LAC submits that possession could not be taken over with respect to the part of the land on account of the area being built up.

6. Learned counsel for the petitioner has drawn attention of this Court to para 9 of the counter affidavit filed on behalf of LAC to show that the compensation has not been paid to the petitioner. Para 9 of counter affidavit filed by LAC reads as under:-

“9. That as regards possession, it is humbly submitted as per the possession proceedings report, possession of the land in question i.e. 2 bigha land of petitioners comprised in khasra nos.825/2/31 (87-05) was taken on 31.05.1967 and 14.06.1972. So far as compensation, is concerned, it is humbly submitted that as per statement “A” compensation is assessed in the name of Mahipat S/o Shiv Dyal at entry 140 but payment of compensation has not been mentioned anywhere in front of this entry. Record is also old and in torn condition.”

7. Learned counsel for the LAC submits that the available records are in a torn condition. However, learned counsel submits that the compensation

was assessed, but whether it has been paid or not it is nowhere mentioned in the record.

8. Having regard to the fact that area in question was built up and possession could not be taken and also the fact that LAC could not be able to show that compensation has been paid, we are of the considered view that the necessary ingredients for the application of Section 24(2) of the New Act as has been interpreted by the Supreme Court of India and this Court in the following cases stand satisfied:

- (1) ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183;***
- (2) **Union of India and Ors v. Shiv Raj and Ors., reported at (2014) 6 SCC 564;**
- (3) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors, Civil Appeal no.8700/2013 decided on 10.09.2014;**
- (4) **Surender Singh v. Union of India & Others, W.P.(C).2294/2014 decided on 12.09.2014 by this Court; and**
- (5) **Girish Chhabra v. Lt. Governor of Delhi and Ors; W.P.(C).2759/2014 decided on 12.09.2014 by this Court.**

9. In view of the discussion above, the award having been announced more than five years prior to the commencement of the New Act and, as neither the possession has been taken nor compensation paid, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is so declared.

10. The writ petition is allowed. There shall be no order as to costs.

CM No.26828/2016

11. Interim order dated 29.07.2016 is confirmed.
12. The application stands disposed of.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 07, 2017/ck

