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

% *Date of Judgment: 12th December, 2017*

+ **W.P. (C.) No.3744/2015**

GURDEEP SINGH

..... Petitioner

Through Mr. Akhil Sachar and Ms. Gayatri
Nandwani, Advocates

versus

LT. GOVERNOR, NCT OF DELHI & ORS Respondents

Through Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.
Mr. Dhanesh Relan, Standing Counsel
with Ms. Gauri Chaturvedi, Advocate
for DDA.

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 the parties, the present petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of the Constitution of India filed by the petitioner.
3. The necessary facts to be noticed for disposal of this writ petition are that a Section 4 read with Section 17 notification of the Land Acquisition Act, 1894(hereinafter referred to as 'the Act') was issued on 27.10.1999. Thereafter, on 03.04.2000 a Section 6 notification was

issued. The petitioner laid challenge to the aforesaid notifications by filing a W.P.(C).2199/2000(first writ petition) titled as *Krishan Kumar Gupta and Ors v. UOI and Ors.* The writ petition was dismissed by an order dated 09.07.2007. The petitioner, thereafter, approached the Supreme Court of India by filing an SLP bearing no.17951-52/2007. This SLP was then converted into a Civil Appeal no.3017-3018/2012. The aforesaid appeal was allowed by the Supreme Court by a decision rendered on 21.03.2012 on the ground that there was no urgency in the matter and thus, the petitioner could not have been deprived from filing objections under Section 5A of the Act. Admittedly, fresh Section 6 notification was issued on 20.03.2013 post the decision rendered on 21.03.2012. It is the case of the petitioner that this notification under Section 6 has been issued beyond the period of one year and thus, is liable to be quashed.

4. Mr. Sachar, learned counsel for the petitioner submits that this question is no longer res integra and has drawn the attention of the Court to a decision rendered in the case of *Sunil Goel & Ors v. The State and Ors.* [W.P.(C) 3049/2013] decided on 29.04.2014. It is further pointed out that the aforesaid decision has attained finality as the SLP filed by the respondent stands dismissed by an order dated 29.08.2014. Mr. Sachar further submits that this decision has been followed by the predecessor Bench of this Court in the case of *N.K. Bakshi and Ors. v. Union of India & Ors.*, W.P.(C) 8989/2014 decided on 16.05.2017; *D.K. Aggarwal & Anr. v. Union of India & Ors.*, W.P.(C) 2872/2015 decided on 16.08.2017; *Kajal Jolly & Ors. v. Union of India & Ors.*, W.P.(C) 3137/2015 decided on 16.08.2017;

and *Rajender Singh & Ors. v. Union of India & Ors.*, W.P.(C) 6492/2015 decided on 22.08.2017.

5. Learned counsels for the respondents have opposed this petition. However, it is not in dispute that the decision rendered in the case of *Sunil Goel & Ors*(supra) has attained finality. It is also not disputed that *Sunil Goel & Ors*(supra) has been followed in various other cases which have been detailed in the aforesaid paragraph. In the case of *Sunil Goel & Ors*(supra), in paragraphs 18 and 19, it was held as under:

“18. Having considered the submissions made by the learned counsel on both sides, we are of the view that the submissions made by the learned counsel for the petitioners ought to be accepted. This is so because the decision of the Supreme Court in the case of Padmasundara Rao (supra) covers the present case on all fours. The very issue before the Supreme Court, as pointed out by us earlier, was – whether, after the quashing of a declaration under Section 6 of the said Act, a fresh period of one year would be available to the State Government to issue another declaration under Section 6. This question has been answered by the Constitution Bench of the Supreme Court in Padmasundara Rao (supra) in the negative. In other words, when a Section 6 declaration is quashed, it does not give a fresh period of one year to the Government to issue another Section 6 declaration. The Section 6 declaration, after such quashing, if at all, can be issued only during the balance period.

19. In the facts of the present case, the Section 6 declaration was not issued in the available time by the respondents. It was issued much beyond the period of one year stipulated in Section 6(1) even after excluding the period covered by the stay orders granted by the High Court and the Supreme Court. The decision in the case of Abhey Ram (supra) and Rajinder

Kumar Aggarwal (supra) do not come to the aid of the respondents as, indeed, they cannot detract from the legal position laid down by the Constitution Bench in Padmasundara Rao (supra). In both the cases referred to by the learned counsel for the respondents, the courts had taken a view which enured to the benefit of the land owners and was not to be taken as granting a benefit to the land acquiring agencies.”

6. Applying the law laid down in the case of ***Sunil Goel & Ors***(supra) to the facts of the present case, it is noted the Section 4 notification dated 27.10.1999 was a subject matter of stay passed by this Court on 10.05.2000, i.e., for 06 months and 13 days, there was no stay. Post the dismissal of the W.P.(C).2199/2000(first writ petition) on 09.07.2007 and till a stay was granted by the Supreme Court on 17.09.2007 for 02 months and 08 days, there was no stay and thereafter as the judgment was rendered by the Supreme Court on 21.03.2012 till the date of declaration under Section 6 on 20.03.2013, (which is less one day of one year), the respondent LAC could have issued Section 6 notification, when there was no stay or immediately after 21.03.2012.
7. Keeping in view the above dates and the time factor, it would show that the Section 6 notification was issued beyond the stipulated period of one year. Resultantly, for the detailed reasons given in the case of the ***Sunil Goel & Ors***(supra), the present petition is allowed. The notifications under Section 4 dated 27.10.1999 and 6 dated 20.03.2013 of the Act with respect to the land of the petitioner, i.e., 1 bigha and 6.2/3 biswas out of Khasra no.44/9 min (1-4), 10 min(0-2.2/3), situated in the revenue estate of village Pehladpur Bangar, Delhi stand quashed.

8. The writ petition stands disposed of.

CM.APPL 6681/2015 (stay)

9. The application stands disposed of in view of the orders passed in the writ petition.

G.S.SISTANI, J.

V. KAMESWAR RAO, J.

DECEMBER 12, 2017

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