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

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

+ W.P.(C) 8584/2016

OM PARKASH KHANIJO Petitioner

Through Mr.N.S. Chechi, Adv.

versus

UNION OF INDIA AND ORS Respondents

Through Mr.Arun Birbal, Mr.Sanjay Singh,
Mr.Rohan Mehra, Advs. for DDA.
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. By way of this petition filed under Article 226 of Constitution of India, the petitioner seeks a direction to declare the acquisition proceedings with respect to the land of the petitioner measuring 1 bigha 6 biswas 12 biswani comprised in Khasra nos.490/421 (1-12) and 548/492/421 (2-7), situated in the revenue estate of village Jasola, NCT of Delhi, 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').

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 23.06.1989 and 22.06.1990 respectively and award bearing no.21/92-93 was made on 18.06.1992. It is submitted that although the possession report was prepared but the actual physical possession is still with the petitioner. Counsel submits that neither compensation has been paid to the petitioner nor possession has been taken over, and thus, petitioner would be entitled to benefit of section 24(2) of the New Act. He further submits that the case of the petitioner is fully covered by a decision rendered in the case of ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183.***
4. Mr. Jain submits that possession of the land has been taken over. However, compensation has not been tendered as per Naksha Munzamin and also as the statement is not available. Para 8 of counter affidavit filed by LAC reads as under :-

“8. That it is submitted that the lands of village Jasola were notified vide Notification under section 4 of the Land Acquisition Act dated 23.6.1989 which was followed by Notification under section 6 of the said Act vide Notification dated 22.6.1989. That the Land Acquisition Collector passed an Award No.21/92-93 dated 18.6.92 and the possession of the subject land falling in subject khasra numbers was taken on 19.01.2006 besides other lands after preparing Possession Proceeding on the spot, the same was handed over to the beneficiary department i.e. DDA immediately. The compensation of the land under reference however

could not be paid to the recorded owners as per the copy of the Naksha Munzamin whereas the Statement 'A' is not available. It is pertinent to mention here that for the subject land, the objections on the compensation were also filed by Mr. Deepak Manshramani, Mr. Prakash Khannijo and Mr. Vinay Kumar Arora all on 28.2.2014. The copies of objections filed by above-said person sare annexed herewith as Annexure R-1 (colly)."

5. Another objection has been raised by learned counsel for LAC that the petitioner is not the recorded owner of the land in question and is only a General Power of Attorney holder.
6. We have heard learned counsel for the parties. Taking into consideration para 8 of counter affidavit where the respondent has stated that the compensation of the land cannot be paid to the recorded owner as per copy of *Naksha Munzamin* whereas the statement 'A' is not available, the present writ petition is allowed. As far as objection raised with regard to maintainability of the writ petition is concerned, it would be useful to refer to **2017 (6) SCC 751 Govt. of NCT of Delhi Vs. Manav Dharma Trust and another**. Para 28 of its judgment reads as under :-

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

7. In view of aforesaid observation, the present writ petition is allowed. 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.

CM No.35343/2016

8. Interim order dated 08.11.2016 is confirmed.
9. The application stands disposed of.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 07, 2017/ck

