

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

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Date of decision: 4th December, 2017

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W.P.(C) 6550/2017

PARAMJIT SINGH

..... Petitioner

Through: Mr. S.K. Rout, Adv. and
Mr. Chirag Sharma, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for
L&B/LAC
Ms. Mrinalini Sen Gupta and
Ms. Sarita Panda, Adv. for DDA

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J. (ORAL)

1. The counter-affidavit has been handed over in Court, copy has been supplied. The same is taken on record. With the consent of the parties the writ petition is set down for final hearing and disposal.

2. The present writ petition is filed under Article 226 of the Constitution of India by the petitioner. The petitioner is the owner of the land admeasuring 1824 Sq. Yds. out of Khasra Nos. 732 & 733, Village Tuglakabad, Delhi corresponding to property bearing No. 101, M.B. Road, New Delhi.

3. Counsel for the petitioner submits that the land acquisition proceedings with respect to the aforesaid land stands lapsed, as neither possession has been taken nor compensation has been paid. Counsel for the petitioner also relies on para 5 of the Counter-affidavit in support of his submission.

4. Learned counsel appearing for the LAC submits that the physical possession could not be taken nor compensation has been paid. The same has been sent to RD.

5. We have heard learned counsel for the parties.

6. In this case a notification under Section 4 of the Land Acquisition Act was issued on 10th November, 1960, the Section 6 notification was issued on 4th January, 1969 and thereafter an Award No.66/86-87 dated 29th August, 1986 was passed. The petitioner has claimed in this writ petition that he is the owner of the subject land based on a will executed by his late father Shri Darshan Singh in the year 2011. He also placed reliance on a sale deed which has been placed on record dated 28th November, 1959 which was duly registered on 18th April, 1968. He relied on translated copy to show that the subject area has fallen, was purchased by his late father and then he executed to him.

7. Para 5 of the counter-affidavit reads as under:

“5. That it is submitted that the lands of village Tughlakabad were notified vide Notification under Section 4 of the Land Acquisition Act 1894 dated 10.11.1960 which was followed by Notification under section 6 of the said Act vide notification dated 4.1.1969. That the records observed that the physical

possession of the subject land could not be taken due to stay from dispossession and compensation was sent to RD on 19.3.1987 due to dispute.”

8. Having regard to the submissions made and more particularly para 5 of the counter-affidavit filed by the LAC. We are satisfied that the case of the petitioner would be covered by the decision of the Supreme Court in the case of ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183***, the Supreme Court of India in paras 14 and 20 held as under:

“14. Section 31(1) of the 1894 Act enjoins upon the Collector, on making an award under Section 11, to tender payment of compensation to persons interested entitled thereto according to award. It further mandates the Collector to make payment of compensation to them unless prevented by one of the contingencies contemplated in sub-section (2). The contingencies contemplated in Section 31(2) are: (i) the persons interested entitled to compensation do not consent to receive it (ii) there is no person competent to alienate the land and (iii) there is dispute as to the title to receive compensation or as to the apportionment of it. If due to any of the contingencies contemplated in Section 31(2), the Collector is prevented from making payment of compensation to the persons interested who are entitled to compensation, then the Collector is required to deposit the compensation in the court to which reference under Section 18 may be made.

20. From the above, it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the landowners/persons interested nor deposited in the court. The

deposit of compensation amount in the government treasury is of no avail and cannot be held to be equivalent to compensation paid to the landowners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act.”

9. Resultantly, the writ petition is allowed, the acquisition proceedings with respect to the subject land stands lapsed.

10. The writ petition is allowed in above terms.

G.S.SISTANI, J

V. KAMESWAR RAO, J

DECEMBER 04, 2017/aky