

\$~100

THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment delivered on: 24.01.2017

+ **W.P.(C) 9629/2015 & CM 22836/2015**

HARINDER KAUSHIK

... Petitioner

versus

UNION OF INDIA & ORS

... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr Amiet Andlay
For the Respondent No.1	: Mr Nawal Kishore Jha
For the Respondent No.2	: Ms Mrinalini Sen with Ms Kritika Gupta
For the Respondent No.3	: Mr Siddharth Panda

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Mr Siddharth Panda has handed over the counter affidavit on behalf of the respondent No.3. The same is taken on record. The learned counsel for the petitioner does not wish to file any rejoinder affidavit and reiterates the contents of the writ petition.

2. By way of this writ petition the petitioner seeks the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the “2013 Act”) which came into effect on 01.01.2014. The petitioner, consequently, seeks a declaration that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as the “1894 Act”) and in respect of which Award No. 14/1987-88 dated 26.05.1987 was made, *inter alia*, in respect of the petitioner’s land, comprised in Khasra No. 1066 measuring 5 bighas and 4 biswas in village Satbari, New Delhi, shall be deemed to have lapsed.

3. In this case, it has been admitted by the concerned Land Acquisition Collector that physical possession of the subject land has not been taken. This is evident from the counter-affidavit filed on behalf of the concerned Land Acquisition Collector. It is, however, contended by the learned counsel for the respondents that the amount of compensation in respect of the same was deposited in the treasury, though the same has not been paid to the land owner nor was it offered to the land owner.

4. That being the position, the question of payment of compensation will have to be construed in the light of the various decisions rendered by the Supreme Court and this Court in:-

(i) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors:** (2014) 3 SCC 183;

(ii) **Union of India and Ors v. Shiv Raj and Ors:** (2014) 6 SCC 564;

(iii) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors:** Civil Appeal No. 8700/2013 decided on 10.09.2014; and

(iv) **Surender Singh v. Union of India and Ors.:** W.P.(C) 2294/2014 decided 12.09.2014 by this Court.

In *Pune Municipal Corporation* (*supra*) it has been held that unless and until the compensation was tendered to the persons interested, mere deposit of the compensation amount in a court would not amount to payment of compensation. This aspect has also been considered in **Gyanender Singh & Others v. Union Of India & Others:** WP (C) 1393/2014 decided by a Division Bench of this Court on 23.09.2014. Consequently, the mere deposit in the treasury, without being offered or tendered to the persons entitled would not ipso facto amount to payment of compensation.

5. As such, in the present case, neither physical possession of the subject land has been taken nor has any compensation been paid to the petitioner. The Award was made more than five years prior to the coming into force of the 2013 Act.

6. As a result, the petitioner is entitled to a declaration that the said acquisition proceedings initiated under the 1894 Act in respect of the subject lands are deemed to have lapsed. It is so declared.

7. The writ petition is allowed to the aforesaid extent. There shall be no order as to costs.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

JANUARY 24, 2017
SR