

\$~68

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

% Judgment delivered on: 13.02.2017

+ **W.P.(C) 11919/2015 & CM 31645/2015**

UMA SHANKAR SITANI AND ORS Petitioners

versus

GOVT. OF NCT OF DELHI AND ORS Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Vishal Maan.

For the LAC/L&B : Mr Yeeshu Jain, Standing counsel with Ms Jyoti Tyagi.

For the DDA : Mr Sanjeev Sabharwal.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The petitioners seek 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. A declaration is sought to the effect that the acquisition proceeding initiated under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') in respect of which Award No.17/87-88 dated 05.06.1987 was made, *inter alia*, in respect of the petitioners' land comprised in Khasra Nos. 343(4-16) (wrongly

described as 344 in the counter affidavit), 332(4-16), 337/2(0-17), 338/3 (0-15), 338/3 min(1-12), 338/3 min (0-9), 339/1 (1-13), 331(2-2) & 315/2 (0-6) measuring 17 bighas 6 biswas in all in village Khanpur shall be deemed to have lapsed.

2. Insofar as the Khasra Nos. 332 min (1-16), 338/3 (2-16), 337/2 (0-17), 339/1 (1-13) & 343 min (0-10) is concerned, it is admitted by the respondents that the physical possession of the same could not be taken due to the same being heavily built up. As regards the other khasra numbers viz. 315/2(0-6), 331 (2-2), 332 min (3-00), 343 (4-06) are concerned, the physical possession of the land was taken on 16.07.1987. This is disputed by the petitioner who claims to be in actual physical possession of the entire subject land.

3. However, insofar as the question of compensation is concerned, the same has not been paid to the petitioners but according to the respondents, the statement A indicates that the same is disputed. However, there is no clear evidence provided by the respondents that compensation was either offered or paid to the petitioners. Therefore, under these circumstances, it will have to be taken that compensation has not been paid to the petitioners.

4. Without going into the controversy of physical possession, insofar as some of the Khasra numbers are concerned, it is clear that the Award was made more than five years prior to the commencement of the 2013 Act and the compensation has also not been paid to the petitioners. The necessary ingredients for the application of Section 24(2) of the 2013 Act as interpreted by the Supreme Court and this Court in the following cases stand satisfied:-

- (1) **Pune Municipal Corporation and Anr v. Harakchand Misirimal Solanki and Ors: (2014) 3 SCC 183;**
- (2) **Union of India and Ors v. Shiv Raj and Ors: (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: WP(C) 2294/2014** decided on 12.09.2014 by this Court; and
- (5) **Girish Chhabra v. Lt. Governor of Delhi and Ors: WP(C) 2759/2014** decided on 12.09.2014 by this Court.

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

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

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

FEBRUARY 13, 2017/ab

