

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

% *Date of decision: 31st October, 2017*

+ W.P.(C) 12002/2015

JAI SINGH & ORS.

..... Petitioners

Through: Ms. Richa Oberoi and Mr. Prateek
Kohli, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Vijay Joshi, Standing Counsel with
Ms. Rashi Singhal, Adv. for R1.
Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for
L&B/LAC.
Mr. Raunak Singh, Adv. for R3.
MR. O.P. Saxena, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

G.S.SISTANI, J (ORAL)

1. Petitioners have filed the present writ petition seeking a writ declaring the acquisition proceedings initiated in respect of the land of the petitioners forming part of Khasra No. 369 (0-04) and 375 (0-11) admeasuring 15 Biswas situated in Village Neb Sarai, New Delhi as deemed to have been lapsed in view of the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. Admittedly in this case, Section 4 Notification was issued for a public purpose, namely for the Planned Development of Delhi on 5th November,

1980. Section 6 Declaration was issued on 21st May, 1985 and thereafter Award was made on 20th May, 1987. Learned counsel for the petitioners submits that although the possession of the land in question was taken, but no compensation has been paid till date. She has also drawn the attention of the Court to paragraph 4 of the counter-affidavit filed by the LAC. She contends that based on the counter-affidavit, it is clear that no compensation has been paid to the petitioners. Counsel for the petitioners submits that since the compensation has not been paid, present case is fully covered by the decision rendered by the Supreme Court of India in present case is covered ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183.***

2. Mr. Yeeshu Jain, learned Standing Counsel appearing for the respondent L&B/LAC submits that possession of the subject land was taken as far as back as on 5th September, 2005. However the status of the compensation could not be ascertained as Statement 'A' is not available in the office. Additionally there is no entry in the Naksha Muntazamin as to whether any payment was made to the petitioners or not.

3. We have heard the learned counsel for the parties.

4. Para 4 of the counter-affidavit filed by the respondent LAC reads as under:

“That it is submitted that the lands of Village Neb Sarai were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 5.11.1980, declaration u/s 6 was issued on 21.05.1985. The Award was also passed vide Award No. 12/87-88 dated 20.05.1987 and the actual vacant physical possession of the subject land falling in Khasra numbers 369 (0-04) &

375 (0-11) total 15 biswas was duly taken on 5.09.2005 on the spot by preparing possession proceedings and handed over to the DDA on the spot. The status of compensation could not be ascertained as statement 'A' is not available and efforts are being put to search the same. There is no entry in the Naksha Muntazamin as to whether any payment was made to the petitioners or not."

5. Reading of the counter-affidavit clearly shows that compensation has not been paid to the petitioners. Moreover, there is no entry in the Naksha Muntazamin to show as to whether any payment was made to the petitioners. 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."*

6. Having regard to the submissions made by counsel for the parties and the averments made in Para 4 of the counter affidavit filed by the LAC, we are of the considered view that the necessary ingredients for the application of Section 24(2) of the New Act as has been interpreted by the Supreme Court of India and this Court in the following cases stand satisfied:

- (1) ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183;***
- (2) ***Union of India and Ors v. Sshiv Raj and Ors., reported at (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, W.P.(C).2294/2014 decided on 12.09.2014 by this Court; and***
- (5) ***Giri Chhabra v. Lt. Governor of Delhi and Ors; W.P.(C).2759/2014 decided on 12.09.2014 by this Court.***

7. Accordingly, the writ petition is allowed.

8. In view of the discussion above, the petitioners are entitled to a declaration that the acquisition proceedings with respect to respect of the land of the petitioners forming part of Khasra No. 369 (0-04) and 375 (0-11) admeasuring 15 Biswas situated in Village Neb Sarai, New Delhi initiated under the Land Acquisition Act, 1894 are deemed to have lapsed. It is ordered accordingly.

CM No. 31845/2015

Dismissed as infructuous.

G.S.SISTANI, J

V. KAMESWAR RAO, J

OCTOBER 31, 2017/jg