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

% *Date of Judgment: 30th July, 2018*

+ W.P.(C) 1543/2018

PHOOLWATI & ORS

..... Petitioners

Through: Ms.Shruti Munjal, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Yeeshu Jain, standing counsel for
LAC/L&B with Ms.Jyoti Tyagi, adv.
Mr.Arjun Mahajan, Mr.Arjun Pant
and Mr.Suhail Buttan, Advts. for
DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. This petition has been filed by the petitioners under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings initiated in respect of the land of petitioner comprised in Khasra nos.97/10 and 97/1, measuring 4553 sq. yds. situated in the revenue estate of village Karela, Delhi (hereinafter referred to as 'the subject land') are deemed to have lapsed in view 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'), as neither the actual possession of the subject land has been taken nor compensation has been tendered to the petitioners.

2. It is submitted that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 21.03.2003, a Section 6 declaration was made on 19.03.2004. Thereafter, an Award bearing no.22/2005-06 was rendered on 02.01.2006.
3. Counter affidavit has been filed by the LAC in which it is submitted that possession of the subject land was taken on 21/23.02.2007 and handed over to the DDA as the purpose of acquisition was Rohini Residential Scheme. It is further submitted that the recorded owner never turned up to claim compensation and the same is lying unpaid as he/she apparently sold the land through unauthorized modes of transfer. Counsel contends that the petitioners are not the recorded owners of the subject land but are claiming the relief on basis of GPA/Agreement to sell/Will etc. and thus it does not confer any right, title or interest on the petitioners. Learned counsel for the LAC relies on paras 5 & 6 of the counter affidavit, which we reproduce below:

“5. That the present writ petition is liable to be dismissed as the physical possession of the lands which became the subject matter of the present writ petition was taken away back on 21-23.2.2007 with the help of demolition squad and handed over to the requisition agency on the spot as the purpose of acquisition was Rohini Residential Scheme. The petitioner did not challenge the same at the relevant time hence the present petition is highly barred by limitation. The contention of the petitioners that they were not paid/offered the compensation is not tenable as they never submitted any documents with the office of the answering respondent to

claim their respective right for seeking compensation for subject land.

6. That it is submitted that the lands of village Karala were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The Award was also passed vide Award No.22/2005-06 dated 02.01.2006 and the possession of the lands falling in khasra number 97//1 (4-16) and 97//10 (3-02) was also taken in the year 2007 itself on the spot and handed over to the DDA on the spot by preparing possession proceedings on the spot. The recorded owner never turned up to claim compensation and the same is lying unpaid, as he/she apparently sold the lands through unauthorized modes of transfer. It is further submitted that after the possession was taken of the lands notified under the said Award from the recorded owners/petitioners herein, the acquisition proceedings became complete, final and binding as the petitioners thereafter never challenged the same before any Court of law.”

4. In response to the submission made by counsel for the LAC that the petitioners are not the recorded owners of the subject land, Ms. Munjal, counsel for the petitioners submits that the case of the petitioners would be covered by the decision rendered by the Apex Court in *Govt. of NCT of Delhi v. Manav Dharma Trust and another*, reported in 2017 (6) SCC 751 wherein definition of ‘interested person’ has been given, more particularly, para 28, which 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.”

5. We have heard the learned counsels for the parties and considered their rival submissions.
6. The objections raised by the counsel for the LAC with regard to the maintainability of the writ petition on the ground of *locus standi* is without any force in view of the observations made by the Apex Court in the case of ***Manav Dharma Trust and another***(supra).
7. Reading of the counter affidavit filed by the LAC leaves no room for doubt that the compensation has not been paid to the petitioners and thus, one of the two ingredients of Section 24(2) of 2013 Act is accordingly met.
8. Having regard to the fact that the compensation has not been tendered to the petitioners and since the Award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioners is covered by the provisions of Section 24(2) of the 2013 Act and thus, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is ordered accordingly.
9. We have not expressed any opinion on the title of the parties. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.

10. In above terms, the writ petition stands disposed of.

C.M.6321/2018 (stay)

11. The application stands disposed of, in view of the order passed in the writ petition.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 30, 2018/rb

