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

% *Date of Judgment: 25th September, 2018*

+ W.P.(C) 925/2018
NARENDER SINGH

..... Petitioner

Through Mr. Rajesh Gupta, Mr. Harpreet Singh
& Mr. M.C. Verma, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr. Ripu Daman Bhardwaj, CGSC for
UOI with Mr. T.P. Singh, Advocate.
Mr. Sachin Nawani, Advocate for
LAC.
Mr. Pawan Kawrani & Mr. Akshay
Bhasin, Advocates 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 under Article 226 of the Constitution of India by the petitioner seeking a declaration that the acquisition proceedings in respect of the land of the petitioner comprised in Khasra no.23/14 (04-16) admeasuring 4 bigha 16 biswas, situated in the revenue estate of village Mubarakpur Dabas, 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 possession of the

subject land has been taken nor the compensation has been tendered to the petitioner.

2. The necessary facts required to be noticed for the disposal of the present petition are 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.16/2005-06 was rendered on 14.09.2005.
3. Counsel for the petitioner submits that a similar writ petition being W.P. (C) 1785/2015 with respect to the same subject land has already been allowed vide judgment dated 18.07.2017 vis-à-vis to the extent of 1/9th share of the petitioner. However, as on that day a family settlement was under challenge in a declaratory suit i.e. CS (OS) 298/2016, which has now been decreed upholding the family settlement vide judgement dated 26.07.2017. On the basis of CS (OS) 298/2016 filed by one of his family member, the petitioner seeks a declaration that the acquisition proceedings with regard to his share are deemed to have lapsed in view of Section 24(2) of 2013 Act.
4. Counter affidavit has been filed by LAC. Paras 9 and 10 of the counter affidavit filed by LAC reads as under :

“9. That in the present case Khasra No.23//14 (4-16) the possession of land falling to the extent of 4 bigha 8 biswa has been taken by the Govt. on 03.01.2007. Possession of the remaining area to the extent 8 biswa could not be taken due to built-up structures. It is further submitted that the awarded compensation has not been paid due to various objections filed by different persons.

10. It is further informed that share of Narender S/o Ishwar Dutt (1/9 share) in same Khasra no.23//14 (4-16) has already been declared lapsed via CWP no.1785/2015.”

5. Reading of the counter affidavit filed by the LAC leaves no room for doubt that neither compensation has been tendered to the petitioner nor physical possession of the subject land has been taken and thus, the necessary ingredients of Section 24(2) of 2013 Act are accordingly met.
6. Having regard to the fact that neither compensation has been tendered to the petitioner nor possession of the subject land has been taken and since the Award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act, thus, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the share of the petitioner as awarded in CS (OS) 298/2016 in the subject land are deemed to have lapsed. It is ordered accordingly.
7. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 25, 2018

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