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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Judgement: 05th October, 2018

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W.P.(C) 605/2018

ASHOK KUMAR SHARMA

...Petitioner

Through: Mr. N.S. Dalal, Advocate.

versus

LAND & BUILDING DEPARTMENT & ANR

...Respondents

Through: Mr. Sachin Nawani, Advocate
for L&B/LAC

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to 3 bighas 11 biswas land comprised in Khasra No. 78/1 and 4 bighas 5 biswas land comprised in Khasra No. 78/10 situated in the revenue estate of Village Rithala, 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 though the physical possession of the subject land has been taken over, the compensation in respect thereof has not been

tendered to the petitioner.

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 13.12.1981. A Declaration under section 6 of the act was issued on 16.04.1984. Thereafter, an Award bearing No. 16/1985-86 was passed on 10.09.1985.
3. Mr. N.S. Dalal, learned counsel for the petitioner submits that since the physical possession of the subject land has already been taken over and the compensation in respect thereof has not been paid, the petitioner would be entitled to a declaration under Section 24(2) of the 2013 Act.
4. On the other hand, Mr. Sachin Nawani, learned counsel for LAC submits that the actual vacant physical possession of the subject land was taken on 03.07.2006 and the same was handed over to the DDA. It is further submitted that the compensation has not been disbursed to interested persons. Learned counsel for the LAC relies on paras 8 & 9 of the counter affidavit, which we reproduce below:

“4. That the Khasra No. 78/1(3-11) and 10(4-5) are in ownership rights of Kali Ram S/o Tulsi(1/1 share) at item No. 65. The possession of Khasra No. 78/1(3-11),(10(4-5) total area 7 Bigha 16 Biswa has been taken over handed over to the beneficiary, Delhi development authority on 31.07.2006. It is further submitted that possession of Khasra No. 78/11(4-5), 12(4-16) total admeasuring 9 bigha 1 biswa has not been taken over.”

“5. That as per available records viz statemen ‘A’ as well as RD Register available in the office of the LAC compensation has not been disbursed to the interested person.”

5. We have heard the learned counsels for the parties and considered their rival submissions.
6. Having regard to the submissions made by the LAC that the compensation in respect of the subject land has not been tendered to the petitioner 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 and thus, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Act, with regard to the subject land are deemed to have lapsed.
7. In above terms, the writ petition stands disposed of.
8. Ordered accordingly.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL,J

OCTOBER 5, 2018//GR