

\$~48

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

Date of Judgment: 20th July, 2018

+ **W.P.(C) 1305/2016**

SWARUP NARAIN BHATNAGAR & ORS.Petitioners

Through: Mr. Sanjay Goswami, Advocates.

Versus

GOVT. OF NCT OF DELHI & ORS.Respondents

Through: Mr. Sachin Nawani, Adv. for R-1 & 2.

Ms. Biji Rajesh, Adv. for

Mr. Gaurang Kanth, Adv. for EDMC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S. SISTANI, J. (Oral)

1. With the consent of parties the matter is taken up for final hearing and disposal.
2. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to land of the petitioners falling in Khasra No.1796/651/1 min admeasuring 10 Biswa 10 Biswansi (445.85 Sq. Meters), situated at Circular Road, Chota Bazar, village Chandrawali @ Shahdara, 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 '2013 Act') as

compensation has not been paid to the petitioners, although possession of the subject land has been taken.

3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 18.1.2006 and a declaration under Section 6 was made on 15.06.2006. Thereafter, an award bearing no.04/2007-08/East was passed on 29.08.2007.
4. Mr.Sanjay Goswami, learned counsel for the petitioners submits that since the compensation in respect of the subject land has not been paid, the petitioner would thus be entitled to a declaration that the acquisition proceedings with respect to land of the petitioner are deemed to have lapsed under Section 24 (2) of the 2013 Act.
5. Mr. Sachin Nawani, learned counsel for the LAC submits that actual vacant physical possession of the subject land has been taken on 26.08.2010 however, the details of disbursement of compensation to the interested persons are not available.
6. We have heard learned counsels for the parties.
7. Admittedly, the possession of the subject land has been taken over by the Government. As per counter affidavit filed by LAC, possession of the subject land has been taken on 26.08.2010 however the compensation has not been paid. Relevant portion of counter affidavit filed by LAC reads as under:

"7. That in the present case, the possession was taken over and handed over to the beneficiary on 26.8.2010. The

compensation to the tune of Rs.7,53,365/- and Rs.7,51,277/- total amounting to Rs.15,04,642/- received from the beneficiary on 12.2.2008 and 16.4.2008 respectively, however as per available records, the details of disbursement of compensation to the interested person are not available."

8. Despite several opportunities having been granted to respondent No.3/EDMC, no counter affidavit has been filed.
9. Taking into consideration the submissions made and the categorical stand taken by the LAC in the counter affidavit that details of disbursement of compensation to the interested person are not available and also the award having been announced more than five years prior to the commencement of the 2013 Act, in our view, 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. It is ordered accordingly. However, as the possession of the subject land has been put to use, the petitioners would only be entitled to compensation as per the 2013 Act, which shall be paid to the petitioners within one year from today.
10. Resultantly, the writ petition is disposed of in the above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 20, 2018 /SU