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

% *Date of Judgment: 12th March, 2018*

+ W.P.(C) 2122/2016

GANESH SETH & ORS.

..... Petitioners

Through: Mr.S.K.Rout and Mr.Aman Mehrotra,
Advts.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms.Ruchika Rathi, Adv. for
LAC/L&B.
Mr.Kartik Jindal, Adv. for DDA.

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 petitioners. The petitioners seek a declaration that the acquisition proceedings initiated with respect to land of the petitioners measuring (0-19 biswas) bearing Khasra No.409/75 situated in the revenue estate of village Dhirpur, Delhi (hereinafter referred to as 'the subject land') is 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'). Counsel for the petitioners submits that in this case neither physical possession of the subject land has been taken nor the compensation has been tendered.
2. Counsel for the petitioners contends that in this case a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter

referred to as 'the Act') was issued on 21.12.1971. A Section 6 declaration was made on 22.07.1972 and thereafter an Award bearing no.48/78-79 was passed by the Land Acquisition Collector on 27.03.1979. Counsel for the petitioners relies on Section 24(2) of the 2013 Act in support of his submission that as per the aforesaid Section, in case the award has been made five years or more prior to the commencement of the Act and either possession has not been taken or compensation has not been tendered, the acquisition proceedings would deem to have lapsed. Counsel for the petitioners further submits that the award was rendered as far back as in the year 1979 and till date the petitioners continue to remain in the actual physical possession of the subject land and compensation has also not been tendered to the petitioners. Reliance is also placed on the counter affidavit filed by the LAC, as per which, compensation has not been paid to the petitioners.

3. Counsel for the LAC has relied on para 9 of the counter affidavit so filed, which is reproduced as under:

“9. That the Land Acquisition Collector passed an Award bearing No.48/78-79 dated 27.03.1979 and it is submitted that the physical possession of the land bearing Khasra No.409/75 (0-19 Biswas) could not be taken nor the compensation of the same could be paid.”

4. We have heard the learned counsel for the parties.
5. The counter affidavit filed by the LAC leaves no room for doubt that in this case neither physical possession has been taken nor compensation has been tendered. Thus, the case of the petitioners is covered by the provisions of Section 24 (2) of the 2013 Act.

6. Resultantly, since the award having been announced more than five years prior to the commencement of the 2013 Act and neither compensation has been tendered to the petitioners nor physical possession has been taken, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with respect to the subject land are deemed to have lapsed. It is ordered accordingly.
7. The petition stands disposed of.

C.M.9114/2016 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 12, 2018

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