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

% *Date of Judgment: 27th February, 2018*

+ **W.P.(C) 1755/2016**

SHRI JAI PRAKASH GUPTA & ORS

..... Petitioners

Through: Mr.S.K.Rout and Mr.Ansh Tewatia,
Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Akhil Mittal, Advocate for
respondent nos.1 & 2.
Mr.Dhanesh Relan and Ms.Gauri
Chaturvedi, Advocates for
respondent/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 seeking a declaration that the acquisition proceedings in respect of their land admeasuring 405 square yards comprised in Khasra Nos.1157/320, property bearing nos.26 & 26 (part), Gali Nos.2 & 3, Friends Colony Industrial Area, G.T. Road, Shahdara, Delhi (hereinafter referred to as 'the subject land') stand 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 although the physical possession of the subject land had been taken but compensation has not been paid to the petitioners.

2. Counsel for the petitioners submits that the petitioners claim ownership based on two Sale Deeds dated 16.05.1991 and 28.03.2001, copies whereof have been placed on record. The petitioners have also placed reliance on a copy of the Khasra Girdhawari, copy of which has been placed on record pertaining to the years 1967-68 and at page 47 an endorsement has been made in the year 2009.
3. In this case, a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 14.10.2005, a declaration under Section 6 of the Act was issued on 05.10.2006 and an Award bearing No.01/2008-09 was passed on 26.07.2008. It is the case of the petitioners that although the physical possession of the subject land has been taken and it has been put to use but the compensation was not tendered to the petitioners who are rightful owners.
4. Counter affidavit has been filed by the Land Acquisition Collector (in short 'LAC'). In the counter affidavit, it has been averred that the physical possession of the subject land has been taken and further the petitioners are not recorded owners as per revenue record. Another objection taken is that no relief can be granted to the petitioners as compensation of the subject land stands deposited in the Court of Additional District Judge (in short 'ADJ') on 22.03.2016.

5. Mr.Rout, counsel for the petitioners has rebutted the submissions made by counsel for the LAC, he submits that deposit of compensation post coming into force the Act in the year 2013 is of no consequence as the acquisition is deemed to have lapsed prior to the deposit. Additionally, he submits that there is no explanation on record as to why the compensation has now been deposited in Court of ADJ in view of the fact that compensation at no point of time was tendered to the petitioners. He submits that objection with regard to ownership is misplaced in view of copies of documents related to the subject land having been placed on record and mutation in favour of the petitioners prior to issuance of notification. He further submits that the subject land was purchased prior to issuance of the Notification under Section 4 of the Act.
6. Counsel for the DDA submits, on instructions, that the land vests with PWD free from all encumbrances by virtue of the Notification under Section 4 and declaration under Sections 6 of Act and passing of Award No.1/2008-09.
7. Mr.Rout, counsel for the petitioners submits that the petitioners only seek compensation as admittedly the possession of the subject land has been taken by the LAC.
8. We have heard the counsels for the parties.
9. Taking into consideration the submissions made and documents placed on record, we are of the view that the objection raised by counsel for the LAC pertaining to ownership is misplaced. We are also in agreement with the submissions made by Mr.Rout that deposit of compensation in Court of ADJ post coming into force the 2013 Act

is of no consequence. Additionally, there is nothing on record to suggest that the petitioners were offered compensation and the same was refused directly or indirectly.

10. On reading of the counter affidavit, it leaves no room for doubt that the possession of land subject matter of this writ petition has been taken on 09.09.2009 and as per revenue records the compensation has been deposited in the Court of ADJ.
11. Having regard to the submissions made and stand taken by the LAC in the counter affidavit that the possession of the land of the petitioners has been taken but compensation has been deposited in the Court of ADJ for the reasons stated above, we are of the considered view that the acquisition proceedings pertaining to the land of the petitioners are deemed to have lapsed. The petitioners would only be entitled to compensation as per 2013 Act which shall be paid within a period of one year from the receipt of the order. It is ordered accordingly.
12. The writ petition is allowed.

CM No.7512/2016 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 27, 2018

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