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

% *Date of Judgment: 30th July, 2018*

+ W.P.(C) 1516/2018

VENNA JAIN

..... Petitioner

Through: Ms.Shruti Munjal, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Yeeshu Jain, standing counsel for
LAC/L&B with Ms.Jyoti Tyagi, Adv.
Ms.Sapna Chauhan, Adv. for DDA.s

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 by the petitioner under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings initiated in respect of the land of petitioner comprised in Khasra no.490, measuring 1 bigha 1 biswa situated in the revenue estate of village Madan Pur Khadar, New 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 compensation has not been tendered to the petitioner although possession has been taken.
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 23.06.1989 following by declaration under Sections 6 & 17 of the

Act. Thereafter, an Award bearing no.20/92-93 was rendered on 19.06.1992.

3. Counter affidavit has been filed by the LAC in which it is submitted that the actual vacant physical possession of the subject land was taken on 03.12.2012 and the same was handed over to the DDA. It is further submitted that the compensation was sent to the Reference Court under Section 30-31 of the Act on account of an apportionment dispute as the recorded owners are shown as Prakash and Braham Prakash having ½ share each. Learned counsel for the LAC relies on para 4 of the counter affidavit, which we reproduce below:

“4. That the present writ petition is liable to be dismissed as the petitioner is claiming the relief of 1 bigha 1 biswa bigha out of khasra number 490 without being the recorded owner of the subject land. That it is submitted that the lands of village Madan Pur Khadar were notified vide Notification under section 4 of the Land Acquisition Act dated 23.06.1989 which was followed by Notification under section 6 & 17 of the said Act. That the then Land Acquisition Collector passed an Award No.20/92-93 dated 19.06.1992 and the actual vacant physical possession of the land falling in subject khasra number was taken on 3.12.2012 after preparing Possession Proceeding on the spot and was handed over to the beneficiary department i.e. DDA immediately as per direction of the Hon’ble Court. The compensation of the same was also sent to the Reference Court u/s 30-31 of Act, 1894 on 14.10.2014 vide cheque 005221 as there was an apportionment dispute as the recorded owners are shown as Prakash and Braham Prakash having ½ share each.”

4. In response to the submission made by Mr. Jain that the petitioner is not the recorded owner of the subject land, counsel for the petitioner submits that the case of the petitioner would be covered by the decision rendered by the Apex Court in ***Govt. of NCT of Delhi v. Manav Dharma Trust and another***, reported in 2017 (6) SCC 751 wherein definition of ‘interested person’ has been given, more particularly, para 28 of this judgment reads as under:-

“28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi.”

5. We have heard the learned counsels for the parties and considered their rival submissions.
6. The objections raised by the counsel for the LAC with regard to the maintainability of the writ petition on the ground of *locus standi* is without any force in view of the observations made by the Apex Court in the case of ***Manav Dharma Trust and another***(supra).
7. Reading of the counter affidavit filed by the LAC leaves no room for doubt that the compensation has not been paid to the petitioner and thus, one of the two ingredients of Section 24(2) of 2013 Act is accordingly met.

8. Having regard to the fact that the compensation 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 petitioner is entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is ordered accordingly. However, as prayed, petitioner would only be entitled for compensation, which shall be paid to him within one year from today.
9. We have not expressed any opinion on the title of the parties. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
10. In above terms, the writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 30, 2018

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