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

% *Date of Judgment: 22nd February, 2018*

+ W.P.(C) 1412/2015
ASHA AGGARWAL

..... Petitioner

Through: Ms. Esha Mazumdar and Mr. Setu Niket,
Advocates.

versus

LT. GOVERNOR OF DELHI & ORS. Respondents

Through: Mr. Sanjay Kumar Pathak, Mr. Sunil Kumar
Jha, Mr. Kushal Raj Tater and Mohd. Shoiab
Akhtar, Advocates for LAC/L&B.
Ms. Shobhana Takiar and Mr. Udayan
Khandelwal, Advocates for DDA.

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 the parties, the present writ petition is set down for final hearing and disposal.
2. The petitioner seeks quashing of notification No. 10(29)/96/L&B/LA 19599 dated 20.03.2013 issued under Section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). The subject matter of this writ petition is land comprised in Khasra No. 25//25/2 (0-13), 36//5 (1-07) situated in village Shahbad Daulatpur, Delhi.
3. Some necessary facts which are required to be noticed for disposal of this writ petition are that a Section 4 notification of the Act was issued

on 27.10.1999 followed by a notification under Section 6 of the Act issued on 03.04.2000. Aggrieved by the aforesaid notifications, similarly situated land owners had filed a writ petition in Delhi High Court being W. P. (C) 2570/2000 titled as ***“Mohinder Pal Singh & Ors. Vs. Union of India & Ors.”*** in respect of Khasra No. 25//25/2 and W. P. (C) 2327/2000 titled as ***“Surender Kumar Garg & Ors. Vs. Union of India & Ors.”*** with respect to Khasra No. 36//5.

4. It is also pointed out that vide order dated 09.07.2007 passed by the Delhi High Court, the case of the land owners was dismissed. Aggrieved by the order dated 09.07.2007 passed by the Delhi High Court various similarly situated land owners approached the Hon'ble Supreme Court vide CA No. 3514-3517/2007 and various other connected matters. The Hon'ble Supreme Court issued notice and granted interim stay of the order passed by the High Court of Delhi on 03.08.2007. By an order dated 21.03.2012, the Supreme Court was pleased to quash the declaration under Section 17 of the Act and the declaration dated 03.04.2000 issued under Section 6 of the Act.
5. It is not in dispute that pursuant to the order passed by the Hon'ble Supreme Court, the LAC issued a general public notice thereby inviting objections under Section 5A of the Act. The petitioner approached the LAC and filed objections in individual capacity and also through the Residents Welfare Association.
6. A fresh declaration under Section 6 of the Act was made on 20.03.2013 after a lapse of the statutory period of one year. Learned counsel for the petitioner submits that neither the possession of the land in question was taken nor the compensation has been paid. She

further submits that since the fresh Section 6 notification was made after a lapse of more than one year, the case of the petitioner would be covered by the decision rendered by the Coordinate Bench of this Court in W. P. (C) 3049/2013 titled as ***Sunil Goel & Others Vs. The State and Others*** decided on 29.04.2014 when batch of cases were decided. Reliance is placed on para 18 of the judgment, which is reproduced as under :

18. Having considered the submissions made by the learned counsel on both sides, we are of the view that the submissions made by the learned counsel for the petitioners ought to be accepted. This is so because the decision of the Supreme Court in the case of ***Padmasundara Rao (supra)*** covers the present case on all fours. The very issue before the Supreme Court, as pointed out by us earlier, was - whether, after the quashing of a declaration under Section 6 of the said Act, a fresh period of one year would be available to the State Government to issue another declaration under Section 6. This question has been answered by the Constitution Bench of the Supreme Court in ***Padmasundara Rao (supra)*** in the negative. In other words, when a Section 6 declaration is quashed, it does not give a fresh period of one year to the Government to issue another Section 6 declaration. The Section 6 declaration, after such quashing, if at all, can be issued only during the balance period.

7. It is further pointed out that the case of ***Sunil Goel (Supra)*** has attained finality as SLP preferred by the respondents stands dismissed in *limine*.
8. Learned counsel for the petitioner has also relied upon the relevant dates to draw the attention of the Court that the period of one year has lapsed and fresh notification under Section 6 of the Act is delayed by

7 months and 16 days for one Khasra number and by 7 months 9 days for the other Khasra number.

9. Mr. Pathak, learned counsel for LAC has also drawn the attention of this Court to paras 6 and 24 of the counter affidavit which has been placed on record. Paras 6 and 24 of the counter affidavit is reproduced below:

“6. That the present writ petition under reply is liable to be dismissed on the ground of delay and laches. As the notification under Section 4 of the Old Act was issued on 27.10.1999 declaration under Section 6 was issued on 03.04.2000 and award No. 29/2002-03 was made on 01.11.2002. after quashing of the aforesaid declaration under Section 6 and award, subsequent declaration impugned herein had been issued on 20.03.2013 petitioner has approached before this Court after lapse of so much time.

24. That as regards possession and compensation, it is humbly submitted that possession of the subject land could not be taken due to stay order of this Hon'ble Court. So far compensation amount is concerned, it is humbly submitted that compensation has not been paid.”

10. Mr. Pathak has placed reliance on the judgment rendered by the Apex Court in *Abhey Ram Vs Union of India* reported in (1997) 5 SCC 421 which has been considered in *Sunil Goel (Supra)*.
11. Mr. Pathak further submits that the fresh notification under Section 6 of the Act was issued within a period of one year of the judgment rendered by the Apex Court on 21.03.2012.
12. We have heard learned counsel for the parties.

13. The case of the petitioner is in our view is fully covered by the decision rendered in the case of *Sunil Goel (Supra)*, wherein the Division Bench has relied on a decision of Hon'ble Supreme Court in *Padmasundara Rao (supra)*. The details of the time period applicable to the present case with respect to both Khasra numbers, is detailed below in the form of a chart.

For Khasra No. 25//25/2

		Time Lapse
Date of Section 4 notification	27/10/1999	
Date of stay granted by High Court	16/05/2000	6 months 19 days
Date of dismissal from High Court	09/07/2007	
Date of Notice and stay by the Hon'ble Supreme Court	09/08/2007	1 month
Date of decision by Hon'ble Supreme Court quashing the declaration u/s & urgency clause u/s 17 of the Land Acquisition Act, 1894	21/03/2012	
Declaration u/s 6	20/03/2013	11 months 27 days
Total time lapse		1 Year 7 months 16 days

For Khasra No. 36/5

		Time Lapse
Date of Section 4 notification	27/10/1999	
Date of stay granted by High Court	09/05/2000	6 months 12 days
Date of dismissal from High Court	09/07/2007	
Date of Notice and stay by the Hon'ble Supreme Court	09/08/2007	1 month

Date of decision by Hon'ble Supreme Court quashing the declaration u/s & urgency clause u/s 17 of the Land Acquisition Act, 1894	21/03/2012	
Declaration u/s 6	20/03/2013	11 months 27 days
Total time lapse		1 Year 7 months 9 days

14. The time period excluded from the stay period from the date of notification under Section 4 dated 27.10.1999 till the status quo granted by this Court on 16.05.2000 is 6 months and 19 days. Thereafter, from the date of dismissal of writ petition on 09.07.2007 to 09.08.2007 is one month, when the status quo was granted by the Supreme Court. From the date of judgment of the Supreme Court i.e. 21.03.2012 to the date of Section 6 declaration i.e. 20.03.2013 is 11 months 27 days, hence the total time lapsed is 7 months 16 days in case of Khasra No. 25//25/2 and 7 months 9 days for Khara No. 36/5 after excluding the period of 01 year as per the Act. Resultantly, the writ petition is allowed. The notification dated 27.10.1999 under Section 4 of the Act and the fresh notification dated 20.03.2013 under Section 6 of the act are quashed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 22, 2018 / gr