

\$~42

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

% *Date of Judgment: 6th July, 2018*

+ W.P.(C) 1744/2016
HIMANSHU GUPTA

..... Petitioner

Through Mr. Anand Yadav with Ms. Anita
Tomar, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr. Rajesh Kumar with Ms.
Santwana, Advocates for UOI.
Mr. Sanjay Kumar Pathak, Mr. Kushal
Raj Tater & Mr. M.S. Akhtar,
Advocates for LAC/L&B/GNCTD.
Mr. Dhanesh Relan, Standing Counsel
with Mr. Komal Sorout & Ms.
Mrinalini Sharma, Advocates for
DDA.

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.676 min., measuring 1 bigha 2 biswas, situated in the revenue estate of village Malik Pur Kohi @ Rang Puri, 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 neither the compensation has been tendered to the petitioner nor possession of the subject land has been taken.

2. It is the case of the petitioner that notifications under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') were issued on 01.06.1995 and 27.06.1996, a Section 6 declaration was made on 24.06.1997. Thereafter, an Award bearing no.7/98-99/SW was rendered on 22.06.1999. Counsel for the petitioner further submits that the case of the petitioner is fully covered by provisions of Section 24(2) of 2013 Act, as neither compensation has been paid to the petitioner nor possession of subject land has been taken.
3. Counsel for the petitioner further submits that the decision of the Constitution Bench would have no bearing in the present case, as admittedly, the compensation has not been tendered to the petitioner.
4. Counter affidavit has been filed by the LAC. Para 8 of counter affidavit filed by the LAC reads as under :

“8. That as regards possession, it is humbly submitted as per the possession proceedings report, possession of the land in question i.e. Khasra no.676 min (1-02) was taken on 31.12.2013. So far as compensation, is concerned, the compensation amount had not been received in the account of LAC New Delhi District & thus, the compensation amount could not be paid to the interested persons.”

5. Mr. Sanjay Kumar Pathak, learned counsel for the LAC submits that the possession of subject land has been taken on 31.12.2013. However, he fairly admits that the compensation has not been tendered

to the petitioner as the same has not been received by the LAC from the beneficiary department.

6. We have heard the learned counsels for the parties and considered their rival submissions.
7. Reading of the counter affidavit filed by the LAC leaves no room for doubt that no 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, 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.
9. The writ petition stands disposed of.

CM APPL 7478/2016 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 06, 2018/ck