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

+ W.P.(C) 2672/2014

KIRAN GUPTA & ORS.

..... Petitioners

versus

UNION OF INDIA & ANR.

..... Respondents

+ W.P.(C) 2682/2014

RAJESH KUMAR & ORS.

..... Petitioners

versus

UNION OF INDIA & ANR.

..... Respondents

Present : Mr. N. S. Dalal, Advocate for the petitioners.
Mr. Sidharth Panda, Advocate for LAC/L&B.
Mr. Arun Birbal, Advocate for DDA in W. P. (C) 2672/2014.
Mr. Arjun Pant, Advocate for DDA in W. P. (C) 2682/2014.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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27.02.2018

1. Pleadings are complete.
2. Both these writ petitions have been heard with the consent of the parties and the same are being disposed of by a common order.
3. Both the petitioners are co-owners of land comprised in Khasra Nos. 35/23/1 (0-5) and 35/23/2 (1-05) total measuring 2 Bighas

subject matter of W. P. (C) 2672/2014 and Khasra No. 35/24 measuring 2 Bighas subject matter of W. P. (C) 2682/2014 both lands situated in the revenue estate of Village Mamurpur, Delhi (hereinafter referred to as the 'Subject Land').

4. The petitioners in the present petitions have sought a declaration that the acquisition proceedings with respect to the subject land are deemed to have lapsed in view of Section 24 (2) of the Right to Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act'), as neither the physical possession of the subject lands has been taken nor the compensation has been tendered.
5. During the pendency of these writ petitions, following order was passed on 01.12.2014:

“The learned counsel for the petitioners in these writ petitions states that these petitions are not covered under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The learned counsel is pressing the first prayer and is not pressing the second prayer. As such, the respondents would have to file a detailed affidavit pertaining to the first prayer in both these petitions. The same be filed within four weeks. The rejoinder affidavit, if necessary, be filed within two weeks thereafter. Renotify on 02.02.2015.”

6. On 01.12.2014, learned counsel for the petitioners had made a statement that the petitioners would not press the second prayer as Section 24 (2) of 2013 Act, would not be applicable as the award was passed less than 5 years prior to coming into force of 2013 Act.
7. Today, Mr. Dalal, learned counsel for the petitioners submits that no notice under Section 12 (2) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was served on either of the two petitioners. Despite the fact that prior to issuance of Section 4 notification of the Act, the petitioners had purchased the land in question in the year 1996 and the mutation was carried out in their favour in the same year itself.
8. It is the grievance of the petitioners that despite the land being mutated in their favour, their names were not reflected in the award and no notice under Section 12 (2) of the Act was given to them which according to Mr. Dalal was mandatory. In these circumstances, he has prayed that the entire acquisition proceeding are liable to be quashed.
9. Mr. Panda, learned counsel for the LAC submits that Section 12 (2) of the Act would apply only in cases with regard to compensation. He submits that the Section 12(2) of the act makes it abundantly clear that in cases where a person is present at the time of making award, the limitation is fixed at six weeks. In cases where the person is not present but Section 12 (2) notice is received by him, the limitation is also fixed for 6 weeks. The period of limitation is

6 months from the date of passing the award or knowledge of making of the award.

10. At this stage, Mr. Dalal, learned counsel for the petitioners submits that since these writ petitions are required to be amended extensively, he wishes to withdraw the present writ petitions with liberty to file a fresh petition raising all the pleas available to him. He further submits that he would file fresh petitions within two weeks and till such period interim order may be continued.
11. Learned counsel for the respondents, however, contend that the legal objections available to the respondents be kept open. They further submit that no coercive action would be taken against the petitioners for two weeks.
12. In view of the above, the present writ petitions are dismissed as withdrawn. Leave as prayed granted. Legal objections of the respondents are kept open.

CM APPLN. No. 5569/2014 in W. P. (C) 2672/2014 and
CM APPLN. No. 5586/2014 in W. P. (C) 2682/2014

In view of the order passed in the writ petitions, the present applications stand disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

FEBRUARY 27, 2018

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