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

Date of Judgement: 14th September, 2018

+ **W.P.(C) 1908/2015**

SHYAM SUNDER AGARWAL & ORS

.....Petitioners

Through: Mr. T.N Singh and Mr. Vikas K Singh,
Advocates.

Versus

THE GOVT. OF NCT OF DELHI & ORS.Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi
Advocates for L&B/LAC.

Mr. Dhanesh Relan Standing Counsel for
DDA with Ms Komal Sorout and
Ms.Kajri Gupta, Adv.

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 Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to land of the petitioners comprised in Khasra No. 50/16 (measuring 1 Bhiga), 46/22 (measuring 3 Bhigas 16 Biswas), 50/4 (measuring 1 Bigha 5 Biswas), 50/7 (measuring 1 Bigha 1 Biswa), 46/23 (measuring 1 Bigha 3 Biswas), 50/9 (measuring 1 Bigha 17 Biswas), 50/2 (measuring 4 Bighas 16 Biswas) and 50/3 (measuring 15 Biswas) situated in the revenue-estate of village Pehladpur Bangar, NCT of Delhi (hereinafter referred 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 neither the actual physical possession of the subject land has been taken nor compensation in respect thereof has been paid to the petitioners.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 21.03.2003, a declaration under Section 6 was made on 19.03.2004. Thereafter, an award bearing no.06/2005-06/DC(N-W) was passed by the Land Acquisition Collector on 12.7.2005.
3. Mr. T.N Singh, learned counsel for the petitioners submits that since the actual physical possession of the subject land has not been taken and compensation in respect thereof has not been paid, thus the petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act.
4. Mr. Yeeshu Jain, learned counsel for the LAC submits that actual physical possession of land comprised in Khasra No. 50/9 has been taken over on 31.8.2005; however the amount of compensation in respect of the entire subject land has not been paid to the petitioners. Para 5 and 6 of the counter affidavit filed by LAC read as under :-

“5. ... as the actual vacant physical possession of the subject land falling khasra number 50/9 (3-16) out of total land measuring (4-16) in revenue village Prelad Pur Bangar was duly taken on 31.8.2005 and handed over to the requisition agency i.e. DDA on the spot by preparing possession proceedings on the spot as the purpose of the acquisition was implementation of the Rohini Residential Scheme.... ”

“6. ...if the petitioners were really interested in getting the compensation and/or have any valid title document in their respective names, they would have taken the matter to its logical end by approaching the answering Respondent with the requisite documents of ownership and/or the court of Law by seeking the dispute to be referred to Reference Court which apparently and manifestly could not be done in the absence of the title documents....”

5. Mr. Jain, learned counsel for the LAC has opposed the petition on the ground that the petitioners are claiming relief based on General Power of Attorney, Will, receipt etc. which cannot confer title on the petitioners.
6. On the other hand, Mr. T. N. Singh learned counsel for the petitioners submits that as far as objection with regard to the ownership and title is concerned, the case would be covered by the decision rendered by the Supreme Court in ***Govt. of NCT of Delhi vs. Manav Dharma Trust*** and another, reported in **2017 (6) SCC 751**.
7. Counter Affidavit has also been filed by DDA, relevant portion of which reads as under:-

“6. ... thus, physical and legal possession of land of above said land of Khasra No. 26//22 (4-07) & 23 (3-16) has also duly, validly and legally been handed over to the answering Respondent by the Land Acquisition Collector/Land and Building Department of the Govt. of NCT of Delhi on 26.08.2005 at site and the physical possession of land of Khasra No. 50//3 (4-16) 4 min 91-03), 7 min (1-02) and 9 min (3-16) was handed over at site on 31.8.2005...”

“ 7. The payment of compensation has already been duly remitted to the Land Acquisition Collector through the Land and Building Department of Govt. of NCT of Delhi, vide cheques No. 074064 dated 9.8.2005 for Rs 80,40,76,004/- ... ”

8. We have heard learned counsels for the parties.
9. Having regard to the observations made by the Apex Court in the case of **Manav Dharma Trust** (Supra), in our view the objection raised by Mr. Jain, learned Standing Counsel for LAC/L&B is misplaced. In the case of **Manav Dharma Trust** (supra), the Apex Court has held 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."

10. Reading of the counter affidavit filed by LAC makes it abundantly clear that actual physical possession of land comprised only under Khasra No. 50/9 measuring 3 Bigha 16 Biswas has been taken, however the amount of compensation in respect of the entire subject land has not been tendered to the petitioners.

11. Taking into consideration the submissions made and the stand taken by LAC that only part possession of the subject land has been taken and the compensation has not been tendered to the petitioners, we are of the considered view that the necessary ingredients of Section 24 (2) of 2013 Act stand satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have been lapsed. It is ordered accordingly.
12. However we make it clear that this order would not confer any title on the petitioners. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
13. The writ petition stands disposed of in above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

SEPTEMBER 14, 2018

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