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

Date of Judgment :19th February, 2018

+ W.P.(C) 1979/2016

PANKAJ GUPTA

..... Petitioner

Through Mr. Anuroop P.S., Advocate.

versus

LAND ACQUISITION COLLECTOR (NORTH) & ORS

..... Respondents

Through Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.

Mr. Pawan Mathur, Adv. for DDA.

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 petitioner seeking a declaration that the acquisition proceeding with respect to land of petitioner comprised in Khasra nos.87/14 (3-11) and 87/17 (4-16), situated in the revenue estate of village Khera Kalan, Delhi (hereinafter referred to as the 'subject land') stands lapsed in view of section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act') as neither physical possession of the subject land has been taken nor compensation has been tendered to the petitioner.

2. The necessary facts to be noticed for disposal of this writ petition are that in this case a notification under section 4 read with section 17 (i) of the Land Acquisition Act, 1894 ('the Act' in short) was issued on 27.10.1999, a declaration under section 6 of the Act was made on 03.04.2000. Thereafter, an award bearing no.11/2002-03 was passed on 30.05.2002.
3. Mr. Jain, counsel for LAC, submits that in this case neither the possession of the subject land could be taken nor compensation could be paid. Para 4 of the counter affidavit filed by LAC reads as under :

“4. That it is submitted that the lands of village Khera Kalan were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under section 6 of the Act dated 3.4.2000 and the Award was also passed vide Award No. 11/2002-2003 dated 30.5.2002 as the same was acquired for Rohini Residential Scheme however the possession of the lands could not be taken nor the compensation be paid.”
4. Mr. Mathur, counsel for DDA also submits based on the averments made in para 3 of the counter affidavit that physical possession of the subject land could not be taken on account of existing of a temple over the land. Para 3 of the counter affidavit filed by DDA reads as under :

“(3) I say that I am advised to make following Preliminary Objections:

- a) I say that the petitioner has no locus standi to institute the present writ petition before this Hon'ble Court. It is stated that the petitioner has not placed before this Hon'ble Court any authentic document to show that the petitioner was the owner of the land in question at the time of the issuance of the notification under section 4 or section 6 of the 'The Land

Acquisition Act, 1894' and as such the present writ petition is liable to be dismissed.

It is stated that the petitioner has not placed before this Hon'ble Court any Khatauni or for that matter any Kasra Girdawari before this Hon'ble Court. This assumes importance in view of the fact the possession of the land falling in Khasra No. 87//14 (3-11) and 87//17 (4-12) situated in the revenue estate of Village Khera Kalan, Delhi which has been acquired vide Award No. 11/2002-03 dated 30.05.2005 could not be taken on account of the existence of a temple there. It is stated that the possession of the khasras the possession of which was not taken on 05.05.2000 was to be taken later on after demolition."

5. We have heard the counsel for the parties.
6. Having regard to the fact that neither the physical possession of the subject land has been taken nor compensation has been tendered to the petitioner, in our view, the case of the petitioner is fully covered by section 24 (2) of the 2013 Act. Resultantly, the writ petition is allowed. It is declared that the acquisition proceedings with respect to the subject land stand lapsed.
7. The writ petition is disposed of.

CM APPL 8509/2016 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

FEBRUARY 19, 2018/ck/