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

Date of Judgement: 27th February, 2018

+ **W.P.(C) 1934/2017**

AJIT KUMAR @ AJIT KUMAR CHAUDHARY & ORS

.....Petitioners

Through: Mr. Rajeev Verma, Adv.

Versus

UNION OF INDIA & ORS

.....Respondents

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

Mr. Sanjeev Sabharwal, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J (ORAL)

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.
2. 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 bearing Khasra No.'s 189(5-10), 191(3-1), 214/1(1-12) and 214/2(3-4), measuring 12 Bighas 27 Biswas, situated in the revenue estate of village Molar Band, Tehsil Kalkaji, New 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 no compensation has been paid to the petitioners.

3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 06.04.1964 and a declaration under Section 6 was made on 15.06.1965. Thereafter, an Award bearing no.1934-C/SUPPLY/1980-81 was passed on 06.02.1981.
4. Mr. Rajeev Verma, learned counsel for the petitioners submits that the physical possession of the land was taken on 10.04.1997 however as no compensation in respect thereof has been paid, the petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act.
5. Counsel for the petitioners has drawn attention of the Court to the counter affidavit filed by LAC wherein it has been categorically stated that as per Statement-A the compensation has not been paid.
6. Mr. Yeeshu Jain, counsel for the LAC submits that actual vacant physical possession of the subject land was taken on 10.04.1997 and handed over to DDA for further utilization, however there is no entry in Statement-A which reflects that the compensation has been paid to the petitioners. Para.5 of the counter affidavit filed by LAC reads as under :-

"That the present writ petition is liable to be dismissed as the actual vacant physical possession of the subject land was duly taken on 10.04.1997 on the spot by preparing possession proceedings and handed over to the DDA on the spot however there is no entry in Statement-A reflecting the compensation as paid."

9. We have heard learned counsel for the parties. Taking into consideration the submissions made and the categorical assertion made in the counter affidavit filed by LAC that the compensation has not been paid and since the award has 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 Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. However, as the possession of the subject land has been taken over and the land has been put to use, the petitioners would only be entitled to compensation as per the 2013 Act. Compensation be released within one year from today. It is ordered accordingly.
10. The writ petition stands disposed of.

SANGITA DHINGRA SEHGAL, J.

G.S.SISTANI, J.

FEBRUARY 27, 2018