

\$~39

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Judgement: 20th April, 2018

+ **W.P.(C) 2078/2016**
SURINDER KUMAR PURIPetitioner
Through: Mr. N. S. Chechi, Advocate.

Versus

GOVT OF NCT OF DELHI & ORS.Respondents
Through: Ms. Astha Tyagi with Mr. Dinesh
Chander, Advocate for L&B/LAC.
Mr. Ajinkya Tiwari Advocate for Mr.
Karktik Jindal, Advocate for DDA.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL
HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (Oral)

1. Pleadings are complete. The 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 petitioner seeking a declaration that the acquisition proceedings in respect to his 1/3rd share i.e. 1 bigha 1 biswa out of total measuring 3 bighas 3 biswas comprised in Khasra No. 1255/4, situated in the revenue estate of village Malikpur, New Delhi (hereinafter referred as the 'subject land') stand 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 the possession of

the aforesaid land has been taken nor compensation has been paid to the petitioner.

3. The necessary facts to be noticed for disposal of this writ petition are that a Section 4 notification of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 27.06.1996. Section 6 declaration was made on 10.1.1997. Thereafter an Award bearing no. 02/98-99 was passed by Land Acquisition Collector on 06.01.1999.
4. Mr. N. S. Chechi, learned counsel for the counsel for the petitioners submits that since the physical possession of the land has not been taken and compensation in respect thereof has not been paid, the petitioner would be entitled to a declaration under Section 24 (2) of 2013 Act.
5. On the other hand, Ms. Aastha Tyagi, learned counsel appearing for LAC submits that the possession of the subject land has been taken over on 31.12.2013 and handed over to DDA through L&B Department. The compensation with respect thereof could not be paid to the petitioner as the same was not received in the concerned Bank Account. Relevant Para of the counter affidavit filed by LAC reads as under:

"7. That as per the land revenue record the possession of the land in question was taken over on 31/12/2013 and the possession was handed over to D.D.A. through L&B Department.

8. That the compensation amount has not been paid to the Petitioner as the same was not revived in bank account of LAC New Delhi District. "

6. Counter affidavit has also been filed by the DDA, relevant portion of which reads as under :-

"(f) I say that the physical of the said land i.e. land of the Khasra No. 1134(04-16), 1225/2(03-09), 1228/2(04-02), 1231min(02-05), 1255(04-09), 1255/3(02-05), 1255/4(02-05), 1260(04-10), 1261(03-08), 1262(05-19), (06-03), 1264(04-10), 1265(04-14), 1266(04-02), 1271(05-00), 1272(04-16), 1273(04-16), 1274(04-12), 1275(04-16), 1396(04-13), 1397(04-10), 1242(02-07), 1243(02-00), 254(00-09), 1181(01-04), 1256/1(02-10), 1256/2(05-01), 1328(02-16), 1329 total area measuring 113 bigha 05 biswas of Village Malikpur Kohli @ Rangpuri including land in question has been handed over to DDA by the Land Acquisition/Land and Building Department, Govt. of NCT of Delhi vide possession vide possession proceedings dated 28/12/2013, 30.12.2013 with respect to Award No. 02/1998-99 dated 06.01.1999. The said land has been further handed over to the AE/SWD-4 on the same date."

7. We have heard learned counsel for the parties.
8. Having regard to the submissions made and the categorical assertion made in the counter affidavit filed by LAC that the compensation in respect of the land of the petitioner admeasuring 1 Bigha 1 Biswa comprised in Khasra No. 1255/4 has not been paid and since, the award having been announced more than five years prior to the commencement of the 2013 Act, 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 in the above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

APRIL 20, 2018
Gr//



नित्यमेव जयते