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

% *Date of Decision: 2nd May, 2018*

+ W.P.(C) 2656/2016

BALKISHAN AND ORS

..... Petitioners

Through: Mr Abhimanyu Singh Khatri, Adv

versus

UOI AND ORS

..... Respondents

Through: Mr Saroj Bidawat, Adv for UOI
Mr R.K. Sharma, Adv for R-2&5
Mr Vipul Pankaj Sanghi, Ms Ananya
Kar Sanghi, Adv for DDA

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The present petition has been filed under Article 226 of the Constitution of India whereby the petitioners seek a declaration that the acquisition proceedings pertaining to agricultural land falling in khasra No. 507 admeasuring 7 bigha 8 biswa situated in the Revenue Estate of Village Mamurpur, Narela, Delhi (hereinafter referred to as the 'subject land') is deemed to have 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 physical possession has been taken nor compensation has been tendered.

2. The counsel for the petitioners submits that in view of the categorical stand taken by the LAC in the counter affidavit that compensation has not been tendered to the petitioners, the present writ petition should be decided

as the decision of the Constitution Bench would not have any impact on the present case.

3. It is contended by the learned counsel for the petitioners that a notification under Section 4 of the Land Acquisition Act was issued on 30.10.1963 and Section 6 declaration was made on 16.01.1969. Thereafter, an award was rendered on 09.08.1983 vide Award No. 30/1983-84. The counsel for the petitioners has drawn the attention of the Court to the counter affidavit filed by the LAC, more particularly, paragraph 6 wherein a specific averment has been made that as per the Naksha Mutzamin the compensation has not been tendered to the petitioners.

4. Learned counsel for the DDA submits that the DDA is not a proper and necessary party as the possession of the land has not been handed over to the DDA. He submits that as per the comments received by him, the DDA has no concern with the subject land.

5. We have heard the learned counsel for the parties.

6. It would be useful to reproduce para 6 of the Counter affidavit filed by the LAC. A plain reading of the counter affidavit would show that the compensation has not been tendered to the petitioners and thus the petitioners would be entitled to a declaration in terms of Section 24(2) of 2013 Act. Paragraph 6 of the Counter affidavit of the LAC reads as under:-

“That Khasra No. 507 admeasuring 7 Bigha 8 Biswas situated in the revenue estate of Village Mamurpur, Delhi were notified under Section 4 of the Land Acquisition Act on 30.10.1963 followed by declaration under Section 6 of Land Acquisition Act on 16.01.1969 for public purpose

“Development of Narela Town Ship. In pursuance of said notification, notices under Section 9 & 10 as provided under the Act, were issued to the interested persons, inviting the claims from all the interested persons and claims were also filed by the interested persons. The then Land Acquisition Collector passed Award No. 30/1983-84 dated 09.08.1983 after considering the claims of the claimants. It is submitted that as per records, the possession of the lands being subject matter of this petition has been taken by Government on 11.08.1983, and the compensation of the same has not been paid as per Naksha Mutzamin.”

7. Having regard to the stand taken by the LAC in the counter affidavit that no compensation has been paid, also the award having been announced more than five years prior to the commencement of the 2013 Act, in our view, the petitioners are entitled to declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly.

8. The writ petition is disposed of in the above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

MAY 02, 2018
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