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

Date of Judgement: 13th March, 2018

+ **W.P.(C) 4484/2016**

ASHOK KUMAR AGGARWAL

.....Petitioner

Through: Mr. Triloki Nath Garg with Ms. Nishtha Garg, Advocates.

Versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi Adv. for L&B/LAC.
Mr. Sanjeev Sabharwal, Standing Counsel for DDA with Mr. Hem Kumar & Ms. Simonee Kumari Advocates.
Mr. Sachin Nawani, Adv. for Respondent No.1.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, 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 petitioner seeking a declaration that the acquisition proceedings with respect to 200 sq.yds of land falling in Khasra No.'s 61/9/2 and 61/12, situated in the revenue estate of village Tikri Kalan, 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 physical possession of the subject land has been taken nor compensation in respect thereof 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 15.06.2006. Section 6 declaration was made on 14.06.2007. Thereafter an Award bearing no. 06/DC(W)/2007-08 was passed by the Land Acquisition Collector on 01.05.2008.
4. Ms. Nishtha Garg, learned counsel for the petitioner submits that since the compensation in respect of the subject land has not been paid, the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act. Counsel further submits that her submissions are further fortified by the stand taken by LAC in their counter affidavit.
5. Mr. Yeeshu Jain, learned counsel for the LAC submits that neither the physical possession of the subject land has been taken nor the compensation in respect thereof has been tendered to the petitioner. Relevant portion of the counter affidavit filed by LAC reads as under:

"4A. xxx The Award was also passed vide Award No. 6/2007-08 dated 1.5.2008 however the physical possession of the subject land falling in khasra number 61/9/2 and 61/12 could not be taken nor the compensation have been paid."

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

"It is further submitted that the physical possession of the acquired land Khasra No.61//9/2(1-06) and 61//12(4-16) in the revenue estate of village Tikri Kalan, New Delhi has not been handed over to the respondent-Delhi Development Authority by the LAC/Land and Building Department, Govt. of NCT of Delhi due to built-up. "

7. We have heard learned counsel for the parties.
8. Taking into consideration the submissions made and the categorical assertion made in the counter affidavit filed by LAC and DDA that the actual physical possession of the subject land has not been taken and the compensation has not been paid to the petitioner and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioner is entitled to a declaration under Section 24(2) of the 2013 Act 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.

MARCH 13, 2018

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