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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Judgment: 3rd October, 2018

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W.P.(C) 2489/2015

PADAM CHAND KANODIA

.....Petitioner

Through: Mr. Ankit Banati, Advocate.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Vivek Goyal, CGSC for UOI.
Mr. Yeeshu Jain, Standing Counsel with
Ms Jyoti Tyagi, Advocates for
LAC/L&B.
Mr. Danesh Relan, Standing Counsel
with Ms. Gauri Chaturvedi and Ms.
Mrinalini Sharma, Advocates 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 proceedings with respect to 1 Bigha land of the Petitioner comprised in Khasra No.49/3, situated in the revenue estate of village Prehlad Pur Bangar, New Delhi (hereinafter referred 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 the actual physical possession of the subject land has been taken nor the compensation in respect thereof has been paid to the petitioner.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 21.03.2003 and a declaration under Section 6 was made on 19.03.2004. Thereafter, an award bearing no.06/2005-06 was passed on 12.7.2005.
3. Mr. Ankit Banati, learned counsel for the petitioner submits that since the actual physical possession of the subject 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 the 2013 Act.
4. Mr. Yeeshu Jain, learned counsel for the LAC submits that possession of Khasra No. 49//3 measuring 1 Bigha 10 Biswa has been taken over, however the compensation has not been paid to the petitioner. Relevant Para. of the counter affidavit filed by LAC reads as under :-

"6. ...It is further submitted that the possession of the measuring 1 Bigha 10 Biswa land has been taken on 31.08.2005 and handed over to the requisition agency on the spot whereas the compensation of the same also could not be paid to the recorded owners. It is however submitted that the petitioner's name is mention as khatedar in the khasra number under reference i.e. 49//3."

5. Counter Affidavit has also been filed by DDA. Relevant Para is as under:-

"4(ii) Physical and legal possession of land of Khasra No. 49/3 min (1-10) has duly, validly been handed over to the answering Respondent by the LAC/L&B Deptt. On 31.8.2005, while possession of land bearing Khasra No. 49/3 (3-06) of village Prahlad Pur Bangar was not handed over to the answering Respondent by the land Acquisition Collector/Land and Building Department of the Govt. of NCT of Delhi due to existence of residential houses, factories, Kotha Jat along with boundary wall etc. at site as per possession proceedings dated 31.8.2005. Possession Proceedings of village Prahlad Pur Bangar dated 31.08.2005 in respect of Award No. 06/2005-06 are ANNEXURE R-1"

"(iii) An amount of Rs. 80,40,76,004/- was duly remitted/dispensed to the LAC/Land & Building Department on account of payment of compensation of village Prahlad Pur Bangar vide cheque No. 074064 dated 09.08.2005 in respect of the land acquired vide Award No. 06/05-06."

6. Mr. Jain, learned counsel for the LAC further submits that the petitioner herein have not placed on record any document so as to claim their rights, title or interest in the subject land, as that of recorded owners.
7. On the other hand, Mr. Ankit Banati learned counsel for the petitioner submits that as far as objection with regard to the ownership and title is concerned, the case would be covered by the decision rendered by the Supreme Court in **Govt. of NCT of Delhi vs. Manav Dharma Trust and another**, reported in **2017 (6) SCC 751**.

8. We have heard learned counsels for the parties and considered their rival submissions.
9. The learned counsel for the petitioner has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioner. Counsel has also submitted that the objections of the LAC regarding *locus standi* of the petitioner is misplaced in view of the observation made by the Supreme Court in ***Manav Dharma Trust (supra)*** where the rights of the subsequent purchaser have been recognized.
10. As far as the objection with regard to maintainability is concerned, we find the same to be misplaced in view of the observations made by the Supreme Court in the case of ***Manav Dharma Trust (supra)***. We are of the considered view that, the submissions made by the counsel for the LAC that the petitioner has no *locus standi* to file the present petition as they are the subsequent owners of the subject land, holds no ground.
11. Having regard to the submissions made in the Counter Affidavit filed by LAC that the compensation in respect of the subject land 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 Act with relation to the subject land, are deemed to have lapsed. It is ordered accordingly.

12. However we make it clear that this order would not confer any title on the petitioner. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
13. The writ petition stands disposed of in above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

OCTOBER 3, 2018
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