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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Judgement: 19th March, 2018

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W.P.(C) 3030/2015

DHANI RAM

.....Petitioner

Through: Mr. Puneet Sharma and Ms. Iti Sharma,
Advocates.

Versus

GOVT. OF NCT OF DELHI AND ORS

.....Respondents

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

Mr. Dhanesh Relan, Standing Counsel
for DDA with Ms. Kajri Gupta and Ms.
Mrinalini Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (Oral)

1. Pleadings are complete. Accordingly, 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 100 sq.yds comprised in Property no. 2840, bearing Khasra No. 54/18/1, situated in the revenue estate of village Karala, Tirthankar Nagar, Jain Colony, 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.

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(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 21.03.2003. Section 6 declaration was made on 19.03.2004. Thereafter an Award bearing no. 22/2005-06 was passed by the Land Acquisition Collector on 28.12.2005.
4. Mr. Puneet Sharma, learned counsel for the petitioner submits that since the physical possession of the subject land has not been taken and the compensation in respect thereof has not been paid, the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act. Learned counsel further relies on 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, in response to the stand taken by LAC that the petitioner has no *locus standi* to file the present petition as he is not the recorded owner. Reliance is placed on para 28 of this judgment which reads as under:-

“28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua

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the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

5. On the other hand, Mr. Yeeshu Jain, learned counsel for the LAC submits that the actual physical possession of the subject land has been taken on 23.02.2007. Counsel submits that the compensation awarded in respect of the entire area of subject land has not been paid. He further submits that it is not open for the petitioner to dispute the possession for the reason that the petitioner is the subsequent purchaser and is having illegal possession of the government land. Relevant portion of the counter affidavit filed by LAC reads as under:
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"5. That it is submitted that the possession of the land bearing Khasra no.54//18/1(3-00) of village Karala, is in ownership right of Sh Gianiram S/o Rattanlal (full share) and possession whereof has been taken on dated 23.02.2007. However the awarded compensation with respect to the said land has not been released."

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6. That it is submitted that the petitioners have neither challenged the said Notifications till the year 2014 and at present the alleged possession on the acquired land and the status of the petitioners are nothing but one having illegal possession and unlawful encroachers of the government land which are required to be removed as per law."

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

"Vacant, physical and legal possession of the land in question has also been duly handed over to the answering respondent by the Land Acquisition

Collector/Land and Building Department of the Govt. of NCT of Delhi as far back as on 23.02.2007. The amount of compensation has been paid to the Land Acquisition Collector/Land and Building Department of the Govt. of NCT of Delhi by the answering respondent. "

7. We have heard learned counsel for the parties.
8. 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 observations made by the Supreme Court in *Manav Dharma Trust (supra)* where the rights of the subsequent purchaser have been recognised.
9. Reading of the counter affidavit filed by LAC and DDA makes it clear that the actual physical possession of the subject land has been taken on 23.02.2007 and in respect of compensation, the counsel for LAC submits that the same has not been paid to the petitioner. As far as the objection with regard to the 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)*. Accordingly, the submissions made by the counsel for the LAC that the petitioner has no *locus standi* to file the present petition as he is the subsequent purchaser, holds no ground.
10. Having regard to the submissions made and the categorical assertion made in the counter affidavit filed by LAC as well by the

DDA, that possession of the subject land has been taken and the compensation in respect of the entire area of 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 regard to the subject land are deemed to have lapsed. It is ordered accordingly.

11. The writ petition stands disposed of in the above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 19, 2018//gr