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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 10th August, 2018*

+ W.P.(C) 2515/2017

VINAY BHASIN

..... Petitioner

Through: Mr N.S. Vasisht and Mr M.P.
Bhargava, Advs

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Reshesh Mani Tripathi, Adv for
UI
Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advs for LAC
Ms Shahana Farah and Mr Rahul
Dubey, Advs 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 pertaining to the land of the petitioner comprised in Khasra No.18/3 admeasuring 1 Bigha situated in the revenue estate of Village Pansali, Tehsil Kanjawalla, NCT of Delhi, (hereinafter referred as the 'subject land') are 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 paid.

2. Mr. Vasisht, learned counsel for the petitioner submits that in this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 27.10.1999 and a declaration under Section 6 was made on 03.04.2000. Thereafter, an award bearing no. 04/2002-03 was passed under Section 11 of the Land Acquisition Act, 1894 on 03.04.2002.

3. At this stage, we may note that the petitioner claims to have purchased 1 bigha of the land comprised in Khasra No. 18/3 (4-16) from Sarvshri Narinder Singh, Randhir Singh, Ranbir Singh, Ashok Kumar and Suresh Kumar after obtaining NOC from the authorities and a Sale Deed was executed in his favour on 28.04.1988. It is the case of the petitioner that the possession of the subject land continues to remain with him. While relying on the counter affidavit filed by the LAC, it is submitted that a categorical assertion has been made that compensation has not been tendered for 1 bigha of the land and thus, the petitioner would be entitled to a declaration that the acquisition proceedings are deemed to have lapsed in view of Section 24 (2) of the 2013 Act.

4. The counsel for the LAC disputes that possession of the entire area has not been taken. It is submitted that out of a total area of 3 bigha 12 biswas, possession of 1 bigha 04 biswas of land could not be taken. The relevant paragraph of the counter affidavit reads as under:-

“That it is submitted that the lands of the village Pansali were also notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under Section 6 of the Act dated 03.04.2000. The Award was also passed vide Award No. 4/2002-03 dated 03.04.2002 whereby the lands in Khasra number 18//3 were notified and the actual vacant physical possession of 3 bigha 12 biswa was on 12.05.2000 on the spot by preparing possession proceeding on the spot and handed over to the DDA on the spot and possession of (1-04) could not be taken. The petitioner is claiming the relief of (1-00) however, it cannot be ascertained whether the land of the petitioner would fall in (3-12) which the possession was taken or (1-04) which could not be taken. The compensation for (1-00) to the petitioner however not shown as paid.”

5. We have heard learned counsels for the parties and perused the material available on record.

6. Having regard to the statements made and the stand taken by the LAC in the counter affidavit wherein it is categorically stated that possession of 1 bigha of land has not been taken, we are of the considered view that one of the necessary ingredients for the application of Section 24 (2) of 2013 Act stands satisfied. Since the award having been announced more than five

years prior to the commencement of the 2013 Act and having regard to the fact that possession of 1 bigha of land has not been taken, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have lapsed. It is ordered accordingly.

7. The writ petition stands disposed of in above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 10, 2018
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