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

% *Date of Decision: 14th May, 2018*

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

+ W.P.(C) 4760/2016

OMBIR SINGH & ORS

..... Petitioners

Through: Mr S.K. Rout and Mr Aman Mehrotra,
Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advs for LAC

Mr Dhanesh Relan, SC for DDA with
Ms Gauri Chaturvedi and
Ms Mrinalini Sharma, Advs

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 the land measuring 1 biswa bearing Khasra No. 17//20/2 situated in the Revenue Estate of Village Tajpur Khurd, Delhi (*hereinafter referred to 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. Mr Rout further submits that the decision of the Constitution Bench would have no impact in view of the categorical stand taken by the LAC in the counter affidavit i.e. the possession has not been taken and compensation has not been paid.

2. In the present case, a notification under Section 4 of the Land Acquisition Act, 1894 (*hereinafter referred to as the 'Act'*) was issued on 07.04.2006 and a declaration under Section 6 of the Act was made on 04.04.2007. Thereafter, an award bearing No.4/08-09 was passed on 31.10.2008.

3. Mr Rout, learned counsel appearing for the petitioners, has drawn the attention of the Court to para 4 of the counter affidavit as per which neither the physical possession of the subject land could be taken nor the compensation could be paid. Mr Jain, learned counsel appearing for the LAC, has also relied upon para 4 of the counter affidavit. We deem it appropriate to reproduce the same.

“4. That it is submitted that the lands of village Tejpur Khurd were notified vide Notification under section 4 of the Land Acquisition Act dated 07.04.2006 which was followed by Notification under section 6 of the said Act vide Notification dated 04.04.2007 and the Award No. 4/08-09 dated 31.10.2008 came to be passed as per the law as the purpose of acquisition was for construction of 100 meters road under PDD. The records however revealed that the possession proceeding dated 29.01.2010 did not carry the subject land measuring 1 biswa in khasra number 17/20/2 as the same was built up. Compensation for said one biswa also could not be paid.”

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

5. Having regard to the categorical stand taken in the counter affidavit filed by the LAC that neither physical possession of the subject land has been taken nor compensation has been paid and also taking into consideration the fact that the award having been announced five years prior to the commencement of the 2013 Act, in our view, the petitioners are entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly.

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

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

MAY 14, 2018
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