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

Date of Judgement: 27th February, 2018

+ **W.P.(C) 2657/2017**

AZAD SINGH AND ORS

.....Petitioners

Through: Mr. Bhagwat Pershad Gupta, Advocate.

Versus

UNION OF INDIA & ANR

.....Respondents

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

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, 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 petitioners seeking a declaration that the acquisition proceedings with respect to their 2/3rd share in land bearing Khasra No.'s 118 (2-01), 123 (4-8), 134 (3-10), total measuring 09 Bigha 19 Biswas, situated in the revenue estate of village Behlolpur, 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 (hereinafter referred to as '2013 Act') as no compensation has been paid to the petitioners or to the forefathers.

3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 23.06.1989 and a declaration under Section 6 was made on 22.06.1990. Thereafter, an award bearing no.15/1992-93 was passed on 19.06.1992.
4. Mr. Bhagwat Pershad Gupta, learned counsel for the petitioners submits that the physical possession of the land was taken on 21.04.2006 however as no compensation in respect thereof has been paid, thus the petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act.
5. Counsel for the petitioners has drawn the attention of the Court to the counter affidavit filed by LAC wherein it has been categorically stated that as per Statement-A and Naksha Muntazamin, the compensation has not been paid.
6. Mr. Yeeshu Jain, counsel for the LAC submits that actual vacant physical possession of the subject land was taken on 21.04.2006 and handed over to DDA, however there is no entry in Statement-A and Naksha Muntazamin which reflects that the compensation has been paid. Relevant portion of the counter affidavit filed by LAC reads as under:-

"4. That it is submitted that the lands of village Behlolpur Khadar were notified vide Notification under section 4 of the Land Acquisition Act 1894 dated 23.6.1989 which was followed by Notification under section 6 of the said Act vide Notification dated 22.6.1990. That it is submitted that the Land Acquisition Collector also passed an Award No.15/92-93. The actual vacant physical possession of the

subject land falling in subject khasra numbers was duly taken on 21.4.2006 and handed over to DDA on the spot by preparing possession proceedings, stated supra which fact is being admitted by petitioners at page 10 para 7. However as per statement 'A' and Naksha Muntazamin, the compensation appears to be unpaid."

7. We have heard learned counsel for the parties. Taking into consideration the submissions made and the categorical assertion made in the counter affidavit filed by LAC that the compensation has not been paid and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to their 2/3rd share of the subject land are deemed to have lapsed. It is ordered accordingly.
8. The writ petition stands disposed of.

SANGITA DHINGRA SEHGAL, J.

G.S.SISTANI, J.

FEBRUARY 27 , 2018

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