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

% *Date of Judgment: 30th July, 2018*

+ W.P.(C) 2674/2017
MOHD ZUBAIR

..... Petitioner

Through Mr. Rajiv Kumar Ghawana & Mr.
Anirudh Ahuja, Advocates.

versus

GOVT OF NCT OF DELHI AND ORS Respondent

Through Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.
Mr. Arun Birbal & Mr. Sanjay Singh,
Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings in respect of the land of petitioner comprised in Khasra no.409, measuring 500 sq. yds. (10 biswas), situated in the revenue estate of village Jasola, New 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 the '2013 Act'), as neither the physical possession of

subject land has been taken nor the compensation has been tendered to the petitioner.

2. Counsel for the petitioner submits that in this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 23.06.1989, a Section 6 declaration was made on 22.06.1990. Thereafter, an Award bearing no.21/92-93 was rendered on 18.06.1992. Reliance is placed on the counter affidavit filed by the LAC, as per which, the Naksha Mumtazamin does not contain any entry regarding payment of compensation, although it is contended that statement-A is untraceable.
3. Mr. Jain, counsel for the LAC submits that the present petition is not maintainable as the petitioner is a GPA holder and also that possession has been taken at the spot. Mr. Jain has placed reliance on para 5 of the counter affidavit filed on behalf of the LAC, which we reproduce below :

“5. That it is submitted that the lands of village Jasola were notified vide Notification under Section 4 of the Land Acquisition Act dated 23.6.1989 which was followed by Notification under section 6 of the said Act vide Notification dated 22.6.1990. That the then Land Acquisition Collector passed an Award no.21/92-93 dated 18.6.92 and the possession of the total land falling in khasra number 409 (14-15) was taken on 16.07.2007 after preparing possession proceeding on the spot and was handed over to the beneficiary department i.e. DDA immediately. The Naksha Muntazamin however did not contain any entry regarding payment of compensation whereas Statement-A is untraceable thus the exact status of payment of compensation cannot be ascertained or informed at this stage.”

4. In response to the submission made by counsel for the LAC, Mr. Ghawana, counsel for the petitioner has relied on a judgment rendered by the Apex Court in ***Govt. of NCT of Delhi v. Manav Dharma Trust and another***, reported in 2017 (6) SCC 751 wherein definition of 'interested person' has been given, more particularly, para 28, 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 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. We have heard learned counsels for the parties and considered their rival submissions.
6. The objections raised by the counsel for the LAC with regard to the maintainability of the writ petition on the ground of *locus standi* is without any force in view of the observations made by the Apex Court in the case of ***Manav Dharma Trust and another***(supra).
7. Reading of the counter affidavit filed by the LAC leaves no room for doubt that the compensation has not been paid to the petitioner and thus, one of the two ingredients of Section 24(2) of 2013 Act is accordingly met.
8. Having regard to the fact that the compensation has not been tendered to the petitioner and since the Award having been announced more

than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act and thus, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is ordered accordingly.

9. We have not expressed any opinion on the title of the parties. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
10. In above terms, the writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 30, 2018

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