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

% *Date of Judgment: 17th September, 2018*

+ W.P.(C) 6779/2018 and CM No. 25705/2018

KARIM BAKSH

..... Petitioner

Through: Mr Nitin Mishra and Ms Mitali Gupta,
Advs

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr Siddharth Panda, Adv for
LAC/L&B

Ms Mrinalini Sen Gupta and
Ms Niharika Jauhari, Adv 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 forming part of khasra No. 266 (6-9) and 273 (5-8) measuring 11 bighas and 17 biswas situated in Village Khirki, Tehsil Saket, 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 the physical possession was taken nor compensation paid.

2. In this case the notification under Section 4 of the Land Acquisition Act was issued on 05.11.1980, Section 6 declaration was made on 07.06.1985. An award bearing No. 20/1987-88 was passed in the year 1987.

3. Counsel for the petitioner relies on copies of *jamabandi* placed on record. Reliance is placed on translated copy, more particularly, paragraph 3 to show that the land in question is excluded from the Ministry of Rehabilitation, Government of India and its ownership and title has been approved in favour of Rahimuddin, son of Bhika. Paragraph 3 is reproduced below:-

“The Khasra No. 266/(6-9), 276 / (5-8) total 11-17 bigha is excluded from Ministry of Rehabilitation, Government of India, and its ownership and title has been approved in favour of Rahimuddin Son of Bhika.”

4. Counter affidavit has been filed by the LAC. Mr Panda, learned counsel for the LAC submits that as per award, the land in question is in the ownership of the Custodian department. He further submits that payment has not been released in favour of either of the custodian or the petitioner herein. Physical possession of the subject land has also not been taken and possession is to be handed over by book transfer but the same is yet to be done.

5. Counsel for the petitioner submits that the question of title may be kept open to be decided in appropriate proceedings, however, since as per the *jamabandi* the ownership of the land vests in favour of Sh. Rahimuddin,

son of Sh. Bhika through whom the petitioners are claiming being the grandsons, the declaration so prayed be granted.

6. We have heard the learned counsels for the parties.

7. Paragraph 8 of the counter affidavit filed by the LAC reads as under:-

“That in the present case, as per the award, the land in question is in the ownership of custodian department and it is recorded in the award that possession of such land can be handed over by book transfer and as regards compensation with respect to the lands, an entry to the effect that as per award “Ownership has been mentioned as Custodian Department.”

8. As per the stand taken by the learned counsel for the LAC before the court that the physical possession in the form of book transfer has yet to take place and compensation has not been tendered to any one, resultantly, the acquisition proceedings are deemed to have lapsed, however, we make it clear that we have not expressed any opinion as far as question of title is concerned. The same would be decided in appropriate proceedings.

9. The writ petition along with the pending application is disposed of in the above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 17, 2018

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