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

% *Date of Judgment: 15th March, 2018*

+ W.P.(C) 4947/2016

VIJENDER SOLANKI AND ORS Petitioners

Through: Mr. D.V. Khatri, Advocate

versus

UNION OF INDIA AND ORS Respondents

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

Mr. Arun Birbal, Mr. Sanjay Singh
and Mr. Ajay Birbal, Advocates for
DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The petitioners have filed the present writ petition under Article 226 of the Constitution of India. The petitioners seek a declaration that the acquisition proceedings initiated in respect of the land of petitioners comprised in Khasra no.72/13/1 measuring 3 bigha 9 biswa, situated in the revenue estate of village Palam, New Delhi (hereinafter referred to as 'the subject land') is 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 the physical possession of the subject land has not been taken.
2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 27.01.1984, a declaration under Section 6 was made on 26.09.1984.

Thereafter, an Award bearing no.157/1986-87 was rendered on 19.09.1986.

3. Learned counsel for the petitioners submits that the petitioners continued to remain in actual physical possession of the land and thus, their case would be covered under the provisions of Section 24(2) of 2013 Act.
4. The stand of the DDA in the counter affidavit so filed is that actual physical possession was taken on 14.10.1986 and the land was placed at the disposal of the DDA vide notification bearing no.F.10(7)80/L&B/ dated 30.10.1986 under Section 22(1) of the Delhi Development Act, 1957.
5. As per the counter affidavit filed by the LAC, not only physical possession of the subject land has been taken, but the compensation stands paid. Reliance is placed on the copy of the Execution Petition filed by the petitioners wherein it has been admitted that possession has been taken. Mr. Panda, learned counsel for the LAC contends while relying on the Execution Petition placed on record, more particularly, column 10 wherein the petitioners had prayed that either the warrants of attachment be issued or the petitioners be put into possession of the acquired land. Mr. Panda submits that in view of the stand taken by the petitioners, no relief can be granted to the petitioners and the petitioners are estopped from taking the plea that the petitioners are in actual physical possession of the land. He submits that the DDA is in actual physical possession of the land and the status of the petitioners would be that of a trespasser and thus, no right would accrue in favour of the petitioners.

6. We have heard the learned counsel for the parties and considered their rival submissions.
7. In this case, admittedly not only the compensation but even the enhanced compensation stands paid to the petitioners. The only ground urged before this Court is that the petitioners are in actual physical possession of the land and thus, the petitioners would be covered under the provisions of Section 24(2) of the 2013 Act. We are unable to accept this contention of the learned counsel for the petitioners for the reason that there is an admission on the part of the petitioners in the Execution Petition filed by the petitioners that in case the compensation is not paid, they should be put back into the possession. In effect, the petitioners have admitted that physical possession has been taken by the respondents. Only in the eventuality of compensation not having been tendered or the physical possession not having been taken, the petitioners can gain benefit of Section 24(2) of the 2013 Act. In view of the admissions so made, the petitioners, in our view, would not be entitled to the benefit of Section 24(2) of the 2013 Act.
8. The writ petition is resultantly dismissed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

MARCH 15, 2018/pst