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

Date of Judgement: 6th August, 2018

+ W.P.(C) 9821/2015 and CM No. 23683/2015 (stay)

HARI RAM

..... Petitioner

Through: Mr.Akhil Sachar, Advocate.

versus

LT. GOVERNOR, NCT OF DELHI AND
OTHERS

..... Respondents

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

Mr.Dhanesh Relan, Standing Counsel
with Ms.Kajri Gupta, 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 is a petition under Article 226 of the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings pertaining to 1 Bigha of land of the petitioner comprised in khasra No. 39/7, 8, 13 min, situated in the area of Village Pehladpur Bangar, National Capital Territory of 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 of the subject land has been taken nor the compensation has been tendered to the petitioner.

2. In this case, a notification under Section 4 of the Land Acquisition Act 1894 was issued on 21.03.2003, Section 6 declaration was made on 19.03.2004 and thereafter an award bearing No.06/2005-06/DC(N-W) was rendered on 27.06.2005/12.07.2005.

3. Mr. Akhil Sachar, learned counsel for the petitioner submits that since the actual physical possession of the subject land has not been taken and compensation in respect thereof has not been paid, thus the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act.

4. Mr. Yeeshu Jain, learned counsel for the LAC submits that neither physical possession of the subject land has been taken over nor the amount of compensation has been paid to the petitioner. Para.4 of the counter affidavit filed by LAC reads as under :-

“4. That it is submitted that the lands of village Prehlad Pur Bangar were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The award was also passed vide Award No.6/05-06 dated 12.7.2005 however the

possession of land falling in khasra number 39//7 (4-16), 39//8 (4-15) and 39//13 min (0-01) could not be taken nor the compensation was paid and the petitioner is share holder of 20/192 share.

(emphasis added)

5. The learned counsel for the DDA, submits that possession of the subject land was not handed over to the DDA by the Land acquisition Collector through Land & Building Department, Government of NCT of Delhi at site due to the area being built up. As far as the payment of compensation is concerned, the same has been made vide Cheque to the Land & Building Department. The relevant portion of the counter affidavit filed by the DDA reads as under:-

“Answering respondent submits that the land vests with it free from all encumbrances by virtue of the Notifications under Section 4 and declaration under section 6 of the 1894 Act. It is submitted that the petitioner has unauthorizedly and illegally encroached on Government/DDA land. As per record land bearing Khasra No. 39//7, (4-16), 8 (4-15), 13 (1-14) of Village Prehladpur Bangar have been acquired for public purpose for planned development of Delhi under due process of law vide Notifications under Sections 4 & 6 of the Land Acquisition Act No. F11(19)01/L&B/LA dated 19.03.2004 and passing of Award No.06/2005-06/DC/NW dated 12.07.2005. Possession of the above said land was not handed over to DDA by the Land Acquisition Collector through Land & Building Deptt. Govt. of NCT of Delhi at site due to built up as per possession proceedings dated 26.08.2005.

As per payment register, the payment of the compensation in respect of Award No.06/2005-06 of Village Prehladpur Bangar amounting to Rs.80,40,76,004/- has been made vide Cheque No. 0740640 dated 09.08.2005 to the L&B Department vide letter No.F.14(10)CFC/DDA/158 dated 11.08.2005.”

6. We have heard learned counsels for the parties.
7. Reading of the counter affidavit filed by LAC makes it abundantly clear that neither physical possession of the subject land has been taken over nor compensation has been tendered to the petitioner.
8. Taking into consideration the submissions made and the stand taken by LAC that neither physical possession of the subject land has been taken over nor the compensation has not been tendered to the petitioner, we are of the considered view that the necessary ingredients of Section 24 (2) of 2013 Act stand satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act and, having regard to the fact that the physical possession of subject land has not been taken and compensation has not been tendered, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land is deemed to have been lapsed. It is ordered accordingly.
9. The writ petition stands disposed of in above terms.

C.M. No. 23683/2015 (Stay)

1. In view of the order passed in the writ petition the present application is rendered infructuous.
2. Application stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

**AUGUST 6, 2018
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