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

% *Date of Judgment: 28th August, 2018*

+ W.P.(C) 5169/2016

RATAN SINGH

..... Petitioner

Through: Mr Sunil K. Goel, Adv

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr Rajneesh Sharma, Adv for LAC

Ms Rukhmini Bobde, 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 with respect to 1/21st share of the land of the petitioner admeasuring 7 biswas comprised in Khasra No. 255/2(5-16) and 271/2 min (0-14) situated in the revenue estate of Village Ghonda Gujran Khadar, Shahdara, 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 the compensation in respect thereof has not been paid to the petitioner although physical possession of the subject land has been taken over.

2. 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 20.06.1990. Thereafter, an award bearing no.8/1992-93 was passed on 19.06.1992 under Section 11 of the Act.

3. Mr. Goel, learned counsel appearing for the petitioner, has drawn the attention of the Court to para 8 of the counter affidavit filed by the LAC as per which compensation has not been paid to the petitioner. In this circumstance, learned counsel for the petitioner submits that the petitioner would be entitled to a declaration under Section 24(2) of the Act.

4. Mr Yeeshu Jain, learned counsel for the LAC, submits that possession of the subject land has been taken over and handed over to the beneficiary department on 21.03.2007. However, the compensation was not paid to the petitioner. Para 8 of the counter affidavit filed by the LAC reads as under:-

“8. It is respectfully submitted that the compensation was not received by the petitioner however the compensation of the same khasra No. has been received by the co-owners.”

5. Learned counsel for the DDA, submits that physical possession of the subject land had been handed over to DDA by L&B / LAC on 21-03-2007 and the same was further transferred to JE/SDV/ED-2 on 19.09.2007. The relevant portion of the counter affidavit filed by the DDA reads as under:-

“It is submitted that the physical possession of the land bearing Khasra No. 255/2 (5-16) and 271/2 min has been handed over to DDA by L&B / LAC on 21.03.2007 and some further transferred to JE/SDV/ED-2 on 19.09.2007....

The compensation of Rs. 4,10,04,583/- in respect of the said Award has also been handed over to L&B Deptt. Vide cheque No. 088808 dated 28.02.2007.”

6. We have heard learned counsels for the parties.

7. Having regard to the categorical stand taken in the counter affidavit filed by the LAC that compensation has not been paid to the petitioner, and also taking into consideration the fact that the award having been announced five years prior to the commencement of the 2013 Act, in our view, the petitioner is entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. Counsel for the petitioner has only prayed for compensation as per this Act of 2013. It is ordered accordingly. Compensation be paid to the petitioner within one year from today.

8. The writ petition stands disposed of in above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 28, 2018
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