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

Date of Judgement: 27th February, 2018

+ **W.P.(C) 6200/2016**

SANJEEV MATHUR & ORS.

.....Petitioners

Through: Mr. S. Chaturvedi with Ms. Ruchi Bansal
Advocates.

Versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms. Ruchika Rathi for L&B/LAC,
Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J (ORAL)

1. With the consent of the parties, the Writ Petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings in respect of the land of the petitioner admeasuring 1 Bigha 5 Biswas comprised in Khasra No. 17/21/2(2-03) situated in the revenue estate of village Pansali, New Delhi (hereinafter referred as the 'subject land') stand lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act') as neither the possession of the aforesaid land has been taken nor compensation has been paid to the petitioner.

3. The necessary facts to be noticed for disposal of this writ petition are that a Section 4 notification of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 21.03.2003. Section 6 declaration was made on 18.03.2004. Thereafter an Award bearing no. 14/2005-06/DC/NW was passed by Land Acquisition Collector on 17.08.2005.
4. Mr. S. Chaturvedi, learned counsel for the counsel for the petitioners submits that since the physical possession of the land has not been taken and compensation in respect thereof has not been paid, the petitioner would be entitled to a declaration under Section 24 (2) of 2013 Act.
5. On the other hand, Ms. Ruchika Rathi, learned counsel appearing for LAC submits that neither the possession of the subject land could be taken nor the compensation was paid. Relevant Para of the counter affidavit filed by LAC reads as under:

"5. That it is submitted that the lands of village Pansali were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 21.03.2003 which was followed by the Notification under Section 6 of the Act dated 18.03.2004. The Award was also passed vide Award No. 14/05-06 dated 17.8.2005 whereby besides other lands, the land of the petitioners falling in khasra number 17/21/2 min(2-03) was also notified. It is submitted that out of the notified land measuring (2-03), the actual vacant physical possession of 18 biswa was taken and the compensation was also paid for which there is no dispute by the petitioners. However, the possession of remaining land measuring (1-05) which is a subject matter of the present writ petition could not be taken nor the compensation been paid."

6. Counter affidavit has also been filed by the DDA, relevant portion of which reads as under :-

"(c)That out of above said area of 2 bigha and 3 biswas of Khasra No. 17/21/2 the physical possession of only 18 biswas i.e. Khasra No. 17/21/2 min (0-18) was handed over to DDA by LAC/L&B department on 23.11.2005. However, the physical possession of the area (1-05) i.e. 1 Bigha and 5 biswas was not handed over to DDA by LAC as mentioned in possession proceedings. Thus the aforesaid land vested in DDA on 23.11.2005 without any encumbrance. A copy of the possession proceedings dated 23.11.2005 are annexed herewith as Annexure R-3/1."

7. We have heard learned counsel for the parties.
8. Having regard to the submissions made and the categorical assertion made in the counter affidavit filed by LAC that neither the possession of the subject land has not been taken nor the compensation in that regard has been paid and since, the award having been announced more than five years prior to the commencement of the 2013 Act, 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. The writ petition stands disposed of in the above terms.

SANGITA DHINGRA SEHGAL, J.

G.S.SISTANI, J.

FEBRUARY 27, 2018 gr//