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

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

+ **W.P.(C) 6438/2016**

RITA MARWAH

..... Petitioner

Through: **Mr. Anupam Singh and Mr. Akshay RInge,**

versus

LT. GOVERNOR & ORS.

..... Respondents

Through: **Mr.Yeeshu Jain, Standing Counsel for LAC/L&B with Ms. Jyoti Tyagi, Advocate. Mr. Dhanesh Relan, Standing Counsel for DDA with Ms. Akshita Manocha, Ms.Komal Sorout and Ms. Gauri Chaturvedi, Advocates.**

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Petitioner seeks a declaration that the acquisition proceedings pertaining to land of the petitioner comprised in Khasra No. 759, 764, 765, 767 total measuring 12 Bighas situated in the revenue estate of Village Malikpur Kohi @ Rang Puri, Delhi (hereinafter referred to as 'Subject Land'), stands lapsed in view of the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as '2013 Act').

2. It is the case of the petitioner that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 27.06.1996 followed by a notification under Section 6 of the Act was issued on 24.06.1997. An award bearing No. 7/98-99/SW was pronounced on 22.06.1999 under Section 11 of the Act. It is also the case of the petitioner that neither the possession of the subject land has been taken over nor the compensation has been tendered to the petitioner.
3. Counter affidavit has been handed over by learned counsel for LAC in Court today. The same is taken on record.
4. Learned counsel for LAC has placed reliance on para 4 of the counter affidavit as per which physical possession of the subject land was taken on 31.12.2013 (one day prior to coming into force of 2013 Act), however, the compensation could not be tendered as the same was not received from the requisition agency i.e. Delhi Development Authority (in short 'DDA'). Para 4 of the counter affidavit reads as under :

“That it is submitted that the lands of Village Malik Pur Kohi @ Rangpuri were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 27.6.1996 which was followed by the Notification under section 6 of the Act dated 24.6.1997. The award was also passed vide Award No. 07/98-99 dated 22.6.1999 and the actual vacant physical possession of the subject land falling in khasra number which are subject matter of the present writ petition was taken on 31.12.2013 the spot and handed over to the requisition agency by preparing proper possession proceedings on the spot. The compensation however could not be paid as not received from requisition agency i.e. DDA”.

5. Counter affidavit has also been filed by DDA. Learned counsel for DDA has drawn the attention of the Court to para 5 of the counter affidavit as per which possession has been taken over and compensation for the entire village has been remitted to LAC. Para 5 of the counter affidavit reads as under :

“Petitioner has claimed to be owner of Khasra No.759, 764, 765 and 767, total admeasuring 12 bighas of Village Malikpur Kohi alias Rangpuri. As per Land Record of DDA land bearing Khasra No.759(4-16), 764(4-02), 765(4-02) and 767(6-14) of Village Malikpur Kohi @ Rangpuri, stands duly notified under Sections 4, 6 & 17(i) of the Land Acquisition Act, vide Notification No.F9(12)95/L&B/LA/9741 dated 27.06.1996 and Declaration U/S 6 of the Land Acquisition Act, vide Declaration Notification No. F9(12)95/L&B/LA/6254 dated 24.06.1997 for public purpose for Planned Development of Delhi, under the provisions of the Land Acquisition Act. After Notifications land has duly, validly and legally been acquired under Award No. 7/98-99/SW under Section 11 of the Land Acquisition Act. Physical possession of land comprised in the aforesaid Khasras of Village Malikpur Kohi @ Rangpuri, acquired vide Award No. 7/98-99/SW has been handed over to the answering Respondent by the Land Acquisition Collector/Land and Building Department of the Govt. of NCT of Delhi on 28.12.2013, 30.12.2013 and 31.12.2013. Possession of the aforesaid land handed over by the LAC/L&B Department to the DDA has been handed over by the DDA to A.E./SED-4 on 31.12.2013 itself. Possession Proceeding dated 31.12.2013 in respect of the land in question of Village Malikpur Kohi @ Rangpuri are annexed hereto and marked as **ANNEXURE R-1**”

6. We have heard learned counsel for parties.
7. Having regard to the stand taken by LAC in its counter affidavit that the compensation has not been tendered, in our view the petitioner is entitled to a declaration under Section 24 (2) of 2013 Act as per which in case either compensation has not been tendered or possession is not taken, the acquisition proceedings would be deemed to have been lapsed. It is ordered accordingly that the acquisition proceedings with respect to the subject land of the petitioner stand lapsed.
8. The writ petitions stand disposed of

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 15, 2018

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