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

Date of Judgment: 12th October, 2018

\+ **W.P.(C) 7233/2016**

ISHWAR SINGH AND ORS .....Petitioners

Through: Mr. M.C. Verma, Advocate.

Versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Roshan Lal Goel, Mr. Kalvindra Gill, Advocates for UOI.
Mr. Yeeshu Jain Standing Counsel with Ms. Jyoti Tyagi, Advocates for LAC/L&B.
Mr. Tarunvir Singh, 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 Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to the land comprised in Khasra No. 4//14 (4-16), 17 (4-16), 7//21 (5-10) and 17//1/1 (0-10), situated in the revenue estate of village Mubarak Pur Dabas, Delhi (hereinafter referred 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 '2013 Act') as neither the actual physical

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By:AMULYA

possession of the subject land has been taken nor the compensation in respect thereof has been paid to the petitioners.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 21.03.2003 and a declaration under Section 6 was made on 19.03.2004. Thereafter, an Award bearing no. 12/2005-06 was passed on 05.08.2005.

3. Mr. M.C. Verma, learned counsel for the petitioners 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 petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act.

4. On the other hand, Mr. Yeeshu Jain, learned counsel for the LAC submits that physical possession of the subject land has been taken and compensation has been tendered to the recorded owners, counsel for LAC relies on para 4 and 6 of the counter affidavit, which reads as under:-

> *"4. ...As such, at this stage the petitioners cannot contend that the possession is still with them. It is submitted that the petitioners at best are only custodian of government land as the petitioners were duly paid the huge compensation amounting to Rs. 59,87,285/- in the year 2005 itself. The documents executed by petitioners seeking release of compensation are annexed herewith as Annexure R-1 (colly)."*

> *"6. That it is submitted that the lands of village Barwala 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 subject land measuring (44-06) was also notified and awarded besides other lands as Award was also passed vide Award No. 12/05-06 dated 5.8.2005. The possession of subject land was taken on 6.10.2005 on the spot and handed over to the DDA by preparing Possession Proceedings on the spot. A copy of possession proceeding is annexed herewith as Annexure R-2."*

5. We have heard learned counsels for the parties and considered their rival submissions.

6. At the outset, it is relevant to mention that despite several opportunities counter affidavit has not been filed by the DDA.

7. The learned counsel for the petitioners has submitted that neither physical possession of the subject land has been taken nor compensation has been paid to the petitioners.

8. As per the counter affidavit filed by LAC, the possession of the subject land has been taken on the spot by preparing possession proceedings on 6.10.2005 and the compensation of the subject land has been paid to the recorded owners in the year 2005 itself.

9. Having regard to the submissions made and the categorical assertion made in the counter affidavit filed by LAC, the

possession of the subject land has been taken over on 06.10.2005 and the compensation has been paid to the recorded owners, we are of the considered view that the relief so claimed and pressed before this Court by the petitioners cannot be granted.

10. Hence we are of the view that the present petition lacks merit and is liable to be dismissed.

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

OCTOBER 12, 2018
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