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

% *Date of Judgment: 21st March, 2018*

+ W.P.(C) 3620/2015

VIRENDER KUMAR TREHAN & ORS Petitioners

Through Mr. Ashwin Vaish, Mr. Vinod
Pandey, Mr. Kunal Arora & Mr. Sekh
Zakir Hussain, Advocates.

versus

UNION OF INDIA & ORS Respondents

Through Mr. Bhagvan Swarup Shukla with Mr.
Kamaldeep, Advocates for UOI.
Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. By the present writ petition under Article 226 of the Constitution of India, petitioners seek a direction to quash the notification bearing no.F(11)(17)/91 L&B/LA/6518 dated 28.04.1995 issued under Section 4 of the Land Acquisition Act, 1894 (in short 'the Act') as also the notification bearing no.F.11(17)/91/L&B/LA/Pt.V/1285 dated 26.04.2013 issued under Section 6 of the Act.
2. The necessary facts to be noticed for disposal of this writ petition are that the petitioners claim to be owners and in possession of 4 bighas 4 biswas of land comprised in Khasra no.244, situated in the revenue estate of village Shahibabad Daulatpur, Delhi, having purchased the same by means of a registered sale deed dated 30.05.1985 prior to the

notifications having been issued. It is also claimed that the land of the petitioners forms part of the unauthorized colony, which has been issued a provisional certificate for regularization known as Prahlad Vihar. In this case, post the issuance of a notification under Sections 4 & 17 of the Act i.e. 28.04.1995, a notification under Section 6 of the Act was issued on 26.04.1996. Aggrieved by the aforesaid notifications, similarly situated land owners had filed a writ petition in Delhi High Court being W. P. (C) 2326/2000 titled as ***“Bhupender Singh & Ors. Vs. Union of India & Ors.”***.

3. It is also pointed out that vide order dated 09.07.2007 passed by the Delhi High Court, the case of the land owners was dismissed. Aggrieved by the order dated 09.07.2007 passed by the Delhi High Court various similarly situated land owners approached the Hon'ble Supreme Court vide CA No. 3514-3517/2007 and various other connected matters. The Hon'ble Supreme Court issued notice and granted interim stay of the order passed by the High Court of Delhi on 03.08.2007. By an order dated 21.03.2012, the Supreme Court was pleased to quash the declaration under Section 17 of the Act and directed the respondents to issue a notice under Section 5A of the Act to the petitioners.
4. It is not in dispute that pursuant to the order passed by the Hon'ble Supreme Court, the LAC issued a general public notice thereby inviting objections under Section 5A of the Act. The petitioners approached the LAC and filed objections in his individual capacity and also through the Residents Welfare Association.

5. It is the case of the petitioners that a fresh declaration under Section 6 of the Act was made on 26.04.2013 after a lapse of the statutory period of one year. Learned counsel for the petitioners additionally submits that neither the possession of the land in question was taken nor the compensation has been paid. He further submits that since the fresh Section 6 notification was made after a lapse of more than one year, the case of the petitioners would be covered by the decision rendered by the Coordinate Bench of this Court in W. P. (C) 3049/2013 titled as ***Sunil Goel & Others Vs. The State and Others*** decided on 29.04.2014 when batch of cases were decided. Reliance is placed on para 18 of the judgment, which is reproduced as under :

“18. Having considered the submissions made by the learned counsel on both sides, we are of the view that the submissions made by the learned counsel for the petitioners ought to be accepted. This is so because the decision of the Supreme Court in the case of ***Padmasundara Rao (supra)*** covers the present case on all fours. The very issue before the Supreme Court, as pointed out by us earlier, was - whether, after the quashing of a declaration under Section 6 of the said Act, a fresh period of one year would be available to the State Government to issue another declaration under Section 6. This question has been answered by the Constitution Bench of the Supreme Court in ***Padmasundara Rao (supra)*** in the negative. In other words, when a Section 6 declaration is quashed, it does not give a fresh period of one year to the Government to issue another Section 6 declaration. The Section 6 declaration, after such quashing, if at all, can be issued only during the balance period.”

6. It is further pointed out that the case of *Sunil Goel (Supra)* has attained finality as SLP preferred by the respondents stands dismissed in *limine*.
7. Learned counsel for the petitioners has also relied upon the relevant dates to draw the attention of the Court that the period of one year has lapsed and fresh notification under Section 6 of the Act is delayed by one year six months and eight days.
8. Mr. Jain, learned Standing Counsel for LAC has also drawn the attention of this Court to para 5 of the counter affidavit which is reproduced below:

“5. That it is submitted that the lands of village Shahbad Daulatpur were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 28.4.1995 which was followed by the Notification under section 6 of the Act dated 26.4.1996 however the affected parties challenged the acquisition proceedings and the Hon’ble Supreme Court quashed the notification u/s 6 on 21.3.2012 in SLP No.3513/2007 and fresh section u/s 6 was issued on 26.4.2013 and notice u/s 9-10 were also issued, which was followed by Award No.6/2014-15 dated 19.3.2015. It is submitted that the acquisition proceedings have culminated under the Act, 1894 and no benefit can be given to the petitioner under Act, 2013. Neither the possession of the subject land could be taken nor the compensation be paid as petitioners are claiming relief of (4-04) out of khasra number 244.”
9. Mr. Jain further submits that a fresh notification under Section 6 of the Act was issued within a period of one year of the judgment rendered by the Apex Court on 21.03.2012.
10. We have heard learned counsel for the parties.

11. Submissions of learned counsel for the petitioners are in two folds. Firstly, that since a Section 6 notification was issued post the statutory period of one year after deducting the period during which the acquisition proceedings remain stayed. Secondly, it is contended relying on the stand taken by the LAC in the counter affidavit that since neither the actual physical possession has not been taken nor compensation has been tendered, the case of the petitioners would squarely fall within the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the '2013 Act').
12. Counsel for the petitioners has placed reliance on a notice dated 20.02.2015 issued to the petitioners by the Land Acquisition Collector to show that the Khasra numbers forming part of the present writ petition were included and the same also finds mentioned in the list filed at page 53 of the paper book.
13. The case of the petitioners is in our view is fully covered by the decision rendered in the case of *Sunil Goel (Supra)*, wherein the Division Bench has relied on a decision of Hon'ble Supreme Court in *Padmasundara Rao (supra)*. The details of the time period applicable to the present case, is detailed below in the form of a chart.

		Time Lapse
Date of Section 4 notification	28.04.1995	
Date of stay granted by High Court	15.10.1996	16 months 12 days
Date of dismissal from High Court	09.07.2007	

Date of Notice and stay by the Hon'ble Supreme Court	03.08.2007	1 month 24 days
Date of decision by Hon'ble Supreme Court quashing the declaration u/s & urgency clause u/s 17 of the Land Acquisition Act, 1894	21.03.2012	
Declaration u/s 6	26.04.2013	1 year 1 month 1 day
Total time lapse		2 years 6 months 8 days

14. Considering the time line we have detailed hereinabove leaves no room for doubt that the fresh notification under Section 6 of the Act was not issued within a period of one year after deducting the time spent in Court and covered by the stay order granted by the Court i.e. before the stay granted by the High Court and 24 days from 03.08.2007 being the period of stay granted by the Supreme Court. Resultantly, the writ petition is allowed. The notification dated 28.04.1995 under Section 4 of the Act and the fresh notification dated 26.04.2013 under Section 6 of the act are quashed.
15. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 21, 2018/ck/