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

% *Date of Judgment: 05th July, 2018*

+ **W.P.(C) 3789/2015**

DELHI SIMLA CATHOLIC ARCHDIOCESE Petitioner

Through: Mr.Sandeep Bajaj and Mr.Soayib
Qureshi, Advts.

versus

LT. GOVERNOR CUM ADMINISTRATOR & ORS.

..... Respondents

Through: Mr.Yeeshu Jain, standing counsel for
LAC/L&B.
Mr.Alamgir, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings initiated in respect of the land of petitioner comprised in Khasra no.34, measuring 200 sq. yds. situated in the revenue estate of village Okhla, Delhi (hereinafter referred to 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 the '2013 Act'), as the compensation has not been tendered although physical possession has been taken.
2. It is submitted that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued

on 13.07.2000, a Section 6 declaration was made on 27.06.2001. Thereafter, an Award bearing no.7/1/2003-04/DC (S) was rendered on 20.07.2007.

3. Counter affidavit has been filed by the LAC in which the title of the petitioner has been challenged. However, it is stated that compensation appears not to have been paid. Learned counsel for the LAC relies on para 4 of the counter affidavit, which we reproduce below:

“4. That the present writ petition is liable to be dismissed as the petitioner has suppressed the material facts from the Hon’ble Court as much as the actual vacant physical possession of khasra number 34(5-09) was duly taken on the spot on 14.6.2007 and handed over to DDA on the spot by preparing possession proceeding on the spot. The recorded owner never challenged the acquisition proceeding and accepted the same whereas the petitioner is claiming the relief of lapsing of 200 square yards on basis of GPA dated 27.02.1990 allegedly executed by Mohd. Nawab and Madan Lal claiming to be the owner, occupier whereas revenue record does not reflect the names of both the alleged sellers. The petitioner be directed to furnish the complete chain of documents to claim the relief of 200 sq. yards. The compensation appears to be unpaid.”

4. Counsel for the petitioner submits that the case of the petitioner would be covered by the decision rendered by the Apex Court in ***Govt. of NCT of Delhi v. Manav Dharma Trust and another***, reported in 2017 (6) SCC 751 wherein definition of ‘interested person’ has been given, more particularly, para 28 of this judgment reads as under:-

“28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in

compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi.”

5. Additionally, counsel for the petitioner submits that the petitioner is claiming compensation and also prays that the question of title may be kept open as per the view expressed by this Court in the case of ***Parshotam Joshi vs. Govt. of NCT of Delhi & Ors.***, W.P. (C) 4255/2016 decided on 8th November, 2017, wherein a decision of the Coordinate Bench of this Court in the case of ***Sanjeev Solanki v. Delhi Development Authority and Ors.*** W.P.(C) 1999/2015 decided on 24th January, 2017 so also a subsequent decision of this Court in the case of ***Dhannu v. Lt. Governor, Govt. of NCT of Delhi and Ors.*** W.P.(C) 3158/2015 decided on 16th November, 2017 were followed.
6. Counsel for respondent no.4 submits that the land has been handed over to Jamia Milia Islamia University and the same has been put to use. He further submits that the entire payment has been made to the DDA.
7. We have heard the learned counsels for the parties and considered their rival submissions.
8. Reading of the counter affidavit filed by the LAC leaves no room for doubt that the compensation has not been paid to the petitioner and

thus, one of the two ingredients of Section 24(2) of 2013 Act are accordingly met.

9. Having regard to the fact that the compensation has not been tendered to the petitioner and since the Award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act and thus, 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. However, as agreed, petitioner would only be entitled for compensation, which shall be paid to him within one year from today.
10. In above terms, the writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 05, 2018

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