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

*Date of Judgment :23<sup>rd</sup> February, 2018*

+ W.P.(C) 6775/2016  
URMILA SHARMA

..... Petitioner

Through Ms. Anupriya Singh with Mr. Atul  
Tripathi, Advocates.

versus

LAND ACQUISITION COLLECTOR / A.D.M. & ORS

..... Respondents

Through Mr. Yeeshu Jain, Standing Counsel  
with Ms. Jyoti Tyagi, Advocate for  
L&B/LAC.  
Mr. Kunal Sharma, Adv. 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 petitioner seeking a declaration that the acquisition proceeding with respect to the land of the petitioner i.e. plot no.37A measuring 100 sq. yds. out of Khasra no.624/2 (3-14) & 625/2 (2-12), situated in the revenue estate of village Roshanpura, abadi known as Shyam Vihar, Delhi (hereinafter referred to as the 'subject land') stands 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 neither the physical possession of the subject land has been taken nor the compensation has been tendered to the petitioner.
2. The necessary facts to be noticed for disposal of this writ petition are that in this case a notification under Section 4 of the Land Acquisition

Act, 1894 ('the Act' in short) was issued on 07.04.2006 and a declaration under Section 6 of the Act was made on 04.04.2007. Thereafter, an award bearing no.08/2008-09/SW was announced on 14.11.2008.

3. Mr. Jain, learned counsel appearing for the LAC has drawn attention of the Court to para 4 of the counter affidavit, which reads as under and submits that the petitioner is not the recorded owner and the land vests in Gaon Sabha :-

“4. That the aforesaid acquisition proceedings in respect to the subject land bearing plot no.37A measuring 100 sq. yds. out of Khasra no.624 & 625 situated in the revenue estate of village Roshanpura does not fall within the purview of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 as the possession of the subject property has not been taken due to built up. Further, as per the records available with the Department, the subject land is vested in Gaon Sabha and thus the petitioner herein is not entitled to any benefits under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.”

4. Counsel for the petitioner submits that an identical issue had arisen before another Division Bench of this Court in the case of ***Sanjeev Solanki Vs. Delhi Development Authority and Ors, W.P. (C) 1999/2015, decided on 24.01.2017***, paragraph 5 reads as under:-

“5. While we have declared that the subject acquisition has lapsed, it is made clear that this would not amount to giving title to the petitioner or perfecting the petitioner's title inasmuch as Mr.Jain has taken the plea in

the counter-affidavit filed on behalf of the respondent no.2 that the Gaon Sabha has been shown as the recorded owner. This fact is disputed by the learned counsel for the petitioner. But, we are not entering into the controversy of title which may be sorted out elsewhere. Insofar as the acquisition is concerned, the same has lapsed because neither physical possession was taken over nor compensation was paid.”

5. We have heard learned counsel for the parties. Since, in the present case, neither the physical possession of the subject land has been taken (being built up) nor compensation has been tendered and the award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner would be fully covered by the provisions of Section 24 (2) of the 2013 Act.
6. As far as ownership of subject land is concerned, we make it clear that we have not expressed any opinion with regard to the title of the subject land and the same is kept open, which would be decided in appropriate courts of jurisdiction.
7. Resultantly, the writ petition is allowed. It is declared that the acquisition proceedings with respect to the subject land stand lapsed.
8. The writ petition is disposed of.

**G.S.SISTANI, J.**

**SANGITA DHINGRA SEHGAL, J.**

**FEBRUARY 23, 2018/ck/**