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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment 4th January, 2018*

+ W.P.(C) 3794/2015, CM APPL. No. 6794/2015

IQBAL AHMED & ORS. Petitioners

Through: Mr. Puneet Sharma and Ms. Iti Sharma,
Advocates.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Bhagvan Swarup Shukla, CGSC with
Mr. Kuldeep, Advocate for UOI.
Mr. Siddharth Panda, Advocate for
LAC/L&B.
Ms. Niharika Ahluwalia, 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 writ petition was admitted on 21.11.2016.
2. The present petition has been filed under Article 226 of the Constitution of India. A notification under Section 4 of the Land Acquisition Act, 1894 was issued on 23.06.1989 followed by another notification under Section 6 of the said Act on 22.06.1990 for channelizing of Yamuna River under 'Planned Development of Delhi'. The Land Acquisition Collector thereafter passed an award bearing no.15/92-93 dated 19.06.1992.
3. It is the case of the petitioner that the petitioner is the owner and in possession of land comprised in Khasra no.56 Min situated in the

revenue estate of village-Behlopur Tehsil-Mehrauli, Delhi and since neither the possession has been taken nor compensation paid, the acquisition proceedings quo the land would stand lapsed. Reliance is placed on the decision rendered by the Apex Court in ***Pune Municipal Corporation & Anr. V. Harak Chand Misiri Mal Solanki & Ors.***, reported as (2014) 3 SCC 183.

4. Counter affidavit has been filed by the LAC. Paras 6 & 7 of the counter affidavit read as under:

““ That the land in question i.e., Khasra No. 56 min admeasuring 02 bighas, situated at the revenue estate of village Behlopur Khadar, New Delhi was notified under section 4 of Land Acquisition Act on 23.06.1989 followed by declaration under section 6 of Land Acquisition Act on 22.06.1990 for “channelization of Yamuna River” under Planned Development of Delhi. In pursuance of said notification, notices under section 9 & 10 as provided under the Act, were issued to the interested persons and claims were also filed by the interested persons. The than Land Acquisition Collector passed Award No. 15/92-93 dated 19.06.1992 after considering the claims of the claimants. It is pertinent to mention here that Khasra no. 56 admeasuring 20 bighas and 05 biswas was acquired vide above said award.

That with respect to the land in question it is submitted that possession of the land bearing Khasra No. 56 min (13-04) and (2-0) was taken over and handed over to the beneficiary department on 27.12.1990 and 14.06.2006 respectively and with respect to 05 biswas of land, stay of dispossession was granted by the Hon’ble Court as there exist a Masjid and remaining land of 4 bigha and 16 biswas could not be taken over due to built up. However, as per

Statement “A” compensation was not paid to the recorded owners.”

5. A reading of the counter affidavit filed by the LAC would show that with respect to 5 biswas of land, stay of dispossession was granted by the court as a Masjid exists at the spot and with respect to remaining land of 4 bigha and 16 biswas, possession could not be taken due to area being built up. Further, as per the statement ‘A’, compensation was not paid to the recorded owners.
6. In the light of the counter affidavit which has been filed and the award having been made more than five years prior to the commencement of Act, 2013, all ingredients for the application of Section 24(2) of the New Act as has been interpreted by the Supreme Court of India and this Court in the following cases stand satisfied:
 - (1) ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183;***
 - (2) **Union of India and Ors v. Shiv Raj and Ors., reported at (2014) 6 SCC 564;**
 - (3) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors, Civil Appeal no.8700/2013 decided on 10.09.2014;**
 - (4) **Surender Singh v. Union of India & Others, W.P.(C).2294/2014 decided on 12.09.2014 by this Court; and**
 - (5) **Girish Chhabra v. Lt. Governor of Delhi and Ors; W.P.(C).2759/2014 decided on 12.09.2014 by this Court.**
7. The petitioner is entitled to a declaration that the said acquisition proceedings initiated under the Land Acquisition Act, 1894 with

regard to the subject land are deemed to have lapsed. It is so declared.

The writ petition is allowed.

CM No.6794/2015 (stay)

The application is disposed of, in view of order passed in writ petition.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JANUARY 04, 2018

ssc

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