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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 12th April, 2018*

+ W.P.(C) 4736/2015
DINESH KUMAR & ORS Petitioners
Through: Mr. Rajesh Gupta and Mr. Harpreet Singh, Advocates

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Rajesh Kumar and Mr. Sidharth Rathore, Advocates for UOI.
Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate for L&B/LAC.
Mr. Dhanesh Relan, Standing Counsel with Ms. Komal Sorout and Ms. Mrinalini Sharma, Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The petitioners have filed the present writ petition under Article 226 of the Constitution of India. Counsel for the petitioners submits that the case of the petitioners is fully covered by the decision rendered in the case of *N.K.Bakshi & Ors. v. Union of India & Ors.*, W.P.(C) 8989/2014. It is stated that the acquisition made through the notification published on 26.04.2013 is contrary to The Land Acquisition Act, 1894 (hereinafter referred to as the 'Act'). The petitioners seek a direction to quash the said notification dated 26.04.2013 and consequential direction that the respondents be

directed/restricted from dispossessing the petitioners from the land *i.e.* Khasra Nos.246, 260 and 271 falling in the revenue estate of Village Shahbad Daulatpur, Delhi (hereinafter referred to as the 'subject land').

2. Brief facts required to be noticed for the disposal of the present writ petition are that a notification under Section 4 read with Section 17(1) of the Land Acquisition Act, 1894 was issued on 28.04.1995, followed by a Section 6 declaration on 26.04.1996, which sought to acquire the land for the purpose of Phase-IV, Rohini Residential Scheme. The said notification also invoked the urgency clause of Section 17(4) of the Act.
3. Two petitions *i.e.* W.P.(C)3938/1996 and W.P.(C) 5525/2000 were filed by the petitioners for de-notification and regularization of their lands. The High Court rejected the petition, however, the Supreme Court quashed the Notification dated 28.04.1995 by an order dated 21.03.2012. The court granted liberty to the competent authority to notify objections under Section 5(A) of the Act pursuant to the Notification of 28.04.1995. The appropriate government on 26.04.2013 issued a declaration under Section 6 of the Act after considering the objections filed before it.
4. Declaration and subsequent proceedings became the subject matter of challenge in further fresh writ petitions that were decided by a common judgment reported in *Sunil Goel vs.State & Ors*, 211 (2014) DLT 382. The court allowed the petitions holding that the acquisitions had lapsed by virtue of proviso to Section 6(1) of the Act. In the case of *N.K.Bakshi* (supra), like in the present case, the issue was whether

Khasra Nos.246, 260 and 271 were covered by the declaration in the case of *Sunil Goel* (supra). The court held that the lands were so covered and that the declaration under Section 6(1) could not be issued since the time had lapsed and the entire acquisition, therefore, failed. The court on that occasion observed as below:

“The purported proviso of Section 6(1) of the Act 1894 is clearly well settled. The fact that more than one year period has lapsed between the order passed by Hon’ble Supreme Court and the Notification under Section 6 of the Act establishes that the entirety of the acquisition has lapsed. This plan has been emphasized and repeated time and again by several judgments in the last 15 years. Officially, the petitioners were entitled to the relief because the Supreme Court quashed the dispensing of Section 5(A) of the Act by order dated 21.03.2012. It is clear that the proceedings under Section 6 had to be necessarily issued within a year of that date i.e. on or before 20.03.2013. However, in the present case notification was issued on 26.04.2013. In view of the above, the petitioners’ non-inclusion as petitioner(s) by name before the Supreme Court cannot disentitle them to the relief. This is because the notification now challenged undoubtedly contains the specific reference to Khasra No.261,264 and 265 which belongs to the petitioners. Had the position been otherwise, there is no need for the respondent to have included the petitioner’s land in notification under Section 6 of the Act. In fact in that case, they would have been within their right to acquire the lands on the basis of Urgency clause earlier. It is not their case that compensation was deposited earlier in accordance with the law or that the possession was taken over on the basis of a valid acquisition.

In these circumstances, the respondent’s objections are not sustainable and the writ succeeds and consequential direction is issued. Therefore, the acquisition of the suit land

i.e. land in Khasra No.261, 264 and 265 falling in the revenue estate of Village Shahbad Daulatpur, Delhi is deemed to have lapsed. The writ petition is allowed.

5. Mr. Jain, learned counsel for the LAC disputes the ownership of the petitioners. He submits that the petitioners are claiming ownership based on the General Power of Attorney and Agreement to Sell. As far as the question relating to compensation is concerned, counsel for the petitioners submits that the petitioners would accept the same. As far as the objection regarding ownership/title is concerned, counsel submits that the present petition may be allowed, however the question with regard to the 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. It is ordered accordingly.
6. This petition is clearly covered by the relief clause, that was subject matter of W.P.(C) 3938/1996 which was eventually allowed by the Supreme Court in the common judgment and order dated 21.03.2012. In these circumstances, the Court hereby declares that the acquisition of the subject land of Khasra Nos.246, 260 and 271 falling in the revenue estate of Village

Shahbad Daulatpur, Delhi is deemed to have lapsed by virtue of proviso to Section 6(1) of the Act.

7. The writ petition is allowed.

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8. The application also stand disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

APRIL 12, 2018

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