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

% *Date of Judgment: 4th September, 2018*

+ W.P.(C) 8199/2016

KAMAL KANT BANSAL & ANR

..... Petitioners

Through: Mr S.K. Rout and Mr Aman Mehrotra,
Advs

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Yeeshu Jain, SC with Ms Jyoti
Tyagi, Advs for LAC/L&B

Ms Nidhi Raman, Adv for R-3

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J. (ORAL)

1. This is a petition under Article 226 of Constitution of India filed by the petitioners seeking a declaration that the acquisition proceedings with respect to the land of the petitioners comprised in Khasra No. 31/20 admeasuring 04 biswas situated in the revenue estate of Village Nangloi Jat, New Delhi (hereinafter referred 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 '2013 Act') as the compensation in respect thereof has not been paid to the petitioners although physical possession of the subject land has been taken over.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 04.01.2008 and a declaration under Section 6 was made on 18.01.2008. Thereafter, an award bearing no.05/DC(W)/2007-08 was passed on 30.04.2008 under Section 11 of the Act.

3. Mr. Rout, learned counsel appearing for the petitioners, contends that the possession of the subject land was taken over, however, the compensation in respect thereof has not been tendered. In this circumstance, learned counsel for the petitioners submits that the petitioners would be entitled to a declaration under Section 24(2) of the Act.

4. Mr Yeeshu Jain, learned counsel for the LAC, submits that possession of the subject land was duly taken way back on 24.06.2008 by preparing possession proceedings and the same was handed over to the PWD on the spot, however, the Statement-A with respect to payment of compensation is untraceable and an FIR has been lodged. Para 4 of the counter affidavit filed by the LAC reads as under:-

“4. That the present writ petition is liable to be dismissed as the actual vacant physical possession of the subject lands falling in khasra number 31//20 min(0-04) which became the subject matter of the present writ petition was duly taken way back on 24.06.2008 on the spot by preparing possession proceedings on the spot and the same was handed over to the PWD on the spot however the Statement –A is untraceable and an FIR has been lodged in P.S. Keshavpuram to this effect.”

5. We have heard learned counsels for the parties.

6. Having regard to the categorical stand taken in the counter affidavit filed by the LAC that possession of the subject land has been taken on 24.06.2008, however, the compensation has not been tendered to the

petitioners and also taking into consideration the fact that the award having been announced five years prior to the commencement of the 2013 Act, in our view, the petitioners are entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. Counsel for the petitioners has only prayed for compensation as per this Act of 2013. It is ordered accordingly. Compensation be paid to the petitioners within one year from today.

7. The writ petition stands disposed of in above terms.

SANGITA DHINGRA SEHGAL, J

G.S.SISTANI, J

SEPTEMBER 04, 2018
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