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

% *Date of Judgment: 13th February, 2018*

+ W.P.(C) 7296/2016

RAM PRASAD

..... Petitioner

Through: Mr.Pankaj Vivek with Ms.Manpreet and
Mr.Atul Tripathi, Advocates.

versus

LAND ACQUISITION COLLECTOR & ORS Respondents

Through: Mr.Yeeshu Jain, Standing Counsel for
respondent/LAC.
Mr.Shashwat Anand, Advocate for
Mr.Shantanu Sagar, Advocate for respondent
no.2.
Mr.Virender Pratap Singh Charak and
Ms.Shubhra Parashar, Advocate for
respondent no.4/UOI.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to the land i.e. residential plot measuring 100 square yards out of Khasra No.628/2(3-05) and 631/2(4-12) situated in the revenue estate of village Roshanpura, abadi known as Shyam Vihar,

Delhi (hereinafter referred to as 'the subject land') is 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 neither the physical possession has been taken nor compensation has been paid to the petitioner.

3. Counsel for the petitioner submits that in this case, the petitioner had purchased the residential plot measuring 100 square yards situated in the revenue estate of village Roshanpura, Delhi by way of a registered General Power of Attorney, Will, Agreement to Sell, Receipt and Affidavit. He further submits that the Provisional Certificate of Regularization was issued in favour of the colony where the land is situated being Shyam Vihar, an unauthorized colony.
4. The necessary facts to be noticed for disposal of this petition are that a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 07.04.2006, a Notification under Section 6 of the Act was issued on 04.04.2007 and an Award bearing No.08/2008-09 was passed on 14.11.2008. Counsel for the petitioner submits that neither possession has been taken nor compensation has been tendered to the petitioner. He also submits that his submission is further fortified by the stand taken by the LAC in the counter affidavit.
5. Counsel for the LAC submits that the subject land vests in Gaon Sabha, thus, the petitioner would not be entitled to claim any compensation. Mr.Jain has also opposed this petition on the ground that the petitioner is not the rightful owner. In support of his

submissions, he relies on paragraph 4A of the counter affidavit, which read as under:

“4A. That it is submitted that the lands of Village Roshanpura were notified vide Notification under Section 4 of the Land Acquisition Act dated 07.04.2006 which was followed by Notification under Section 6 of the said Act vide Notification dated 04.04.2007 and the Award No.08/08-09 dated 14.11.2008 was also passed as per the law. It is submitted that the possession of the subject land falling in Khasra number 628/2 (3-05) & 631/2 (4-12) could not be taken nor the compensation has been paid. It is however pertinent to mention here that the petitioner is claiming 100 sq. yds. out of the said Khasra numbers without disclosing the extent of land in individual khasra number for which he is seeking relief under the present writ petition”.

6. Per contra, counsel for the petitioner submits that the objection raised by Mr.Jain, as far as title of the land is concerned, be kept open to be decided in appropriate proceedings. Counsel submits further 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. Counsel submits that a similar view has also been expressed by this Court in the case of ***Parshotam Joshi vs. Govt. of NCT of Delhi & Ors., W.P. (C) 4255/2016***, decided on 08.11.2017.
7. We have heard the counsel for the parties.
8. As far as the objection raised by the counsel for the LAC with regard to the land being vested in the Gaon Sabha is concerned, we deem it appropriate to follow a decision rendered by the Division Bench of this Court in the case of ***Sanjeev Solanki (supra)***, paragraph 5 of which 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."

9. On reading of the counter affidavit, it leaves no room for doubt that neither the physical possession of 100 square yards out of Khasra No.628/2(3-05) and 631/2(4-12) has been taken nor the compensation has been tendered.
10. Accordingly, the petitioner is entitled to a declaration that the acquisition proceedings in respect of the land subject matter are deemed to have lapsed. It is declared accordingly. However, we make it clear that we have not expressed any opinion on the title of the above land. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
11. The writ petition stands disposed of in above terms.

CM No.30016/2016 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 13, 2018

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