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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 22nd May, 2018*

+ W.P.(C) 4155/2015
PRITAM SINGH & ORS Petitioners

Through: Ms Esha Mazumdar, Adv

versus

LT. GOVERNOR OF DELHI & ORS Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advs for LAC

Mr Dhanesh Relan and Ms Gauri
Chaturvedi, Advs for DDA

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. The petitioner seeks quashing of notification No. 10(29)/96/L&B/LA 11394 dated 27.10.1999 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') and notification No.F-10(29)/96/L&B/LA/19599 issued under Section 6 of the Act dated 20.03.2013. The subject matter of this writ petition is lands comprised in Khasra Nos. 36/4(0-11), 25/24/2(0-3), 36/3(0-10); 36/4(1-3), 25/24/2(0-4); 24/22(1-3), 24/21/2(1-2); 26/18 min.(0-10), 26/23 min. (0-10); 26/18 (0-10), 26/23 (0-10); 26/21/1/1(0-10), 35/1/1(0-7), 36/5 min. (0-3); 24/21/1/(1-03); 37/1/1(1-07); 24/21/1(1-03); 35/1/1(0-18), 36/5(0-2); 35/2/2(1-02); 37/2(1-02); 23/23 (1200 sq. yds.); 36/4(1-03), 25/24/2(0-4); 35/1/2/2(750 sq. yds.); 37/3/1(1050 Sq. yds.); 37/1/1(1-07); 35/1/2/2(1-08); 35/1/2/2(1-07) situated in

village Shahbad Daulatpur, Delhi.

3. Some necessary facts which are required to be noticed for disposal of this writ petition are that a Section 4 notification of the Act was issued on 27.10.1999 followed by a notification under Section 6 of the Act issued on 03.04.2000. Aggrieved by the aforesaid notifications, the land owners had filed writ petitions in Delhi High Court being W. P. (C) 3410/2000 and W. P. (C) 4375/2000.
4. It is also pointed out that vide order dated 09.07.2007 passed by the Delhi High Court, the case of the land owners was dismissed. Aggrieved by the order dated 09.07.2007 passed by the Delhi High Court various similarly situated land owners approached the Hon'ble Supreme Court vide CA No. 3513/2007 and various other connected matters. The Hon'ble Supreme Court issued notice and granted interim stay of the order passed by the High Court of Delhi on 19.04.2000. By an order dated 21.03.2012, the Supreme Court was pleased to quash the urgency clause under Section 17 of the Act and the declaration dated 03.04.2000 issued under Section 6 of the Act.
5. It is not in dispute that pursuant to the order passed by the Hon'ble Supreme Court, the LAC issued a general public notice thereby inviting objections under Section 5A of the Act. The petitioners approached the LAC and filed objections in their individual capacity.
6. A fresh declaration under Section 6 of the Act was made on 20.03.2013 after a lapse of the statutory period of one year. Learned counsel for the petitioners submits that neither the possession of the land in question was taken nor the compensation has been paid. She further submits that since the fresh Section 6 notification was made

after a lapse of more than one year, the case of the petitioners would be covered by the decision rendered by the Coordinate Bench of this Court in W. P. (C) 3049/2013 titled as ***Sunil Goel & Others Vs. The State and Others*** reported in (2014) 211 DLT 382 decided on 29.04.2014 when batch of cases were decided. Reliance is placed on para 18 of the judgment, which is reproduced as under :

18. Having considered the submissions made by the learned counsel on both sides, we are of the view that the submissions made by the learned counsel for the petitioners ought to be accepted. This is so because the decision of the Supreme Court in the case of ***Padmasundara Rao (supra)*** covers the present case on all fours. The very issue before the Supreme Court, as pointed out by us earlier, was - whether, after the quashing of a declaration under Section 6 of the said Act, a fresh period of one year would be available to the State Government to issue another declaration under Section 6. This question has been answered by the Constitution Bench of the Supreme Court in ***Padmasundara Rao (supra)*** in the negative. In other words, when a Section 6 declaration is quashed, it does not give a fresh period of one year to the Government to issue another Section 6 declaration. The Section 6 declaration, after such quashing, if at all, can be issued only during the balance period.

7. It is further pointed out that the case of ***Sunil Goel (Supra)*** has attained finality as SLP preferred by the respondents stands dismissed in *limine* vide order dated 26.09.2014.
8. Learned counsel for the petitioners has also relied upon the relevant dates to draw the attention of the Court that the period of one year has lapsed and fresh notification under Section 6 of the Act is delayed by around 5-6 months.
9. Mr. Jain, learned Standing Counsel for LAC has also drawn the

attention of this Court to para 4 of the additional affidavit which has been placed on record. Para 4 of the counter affidavit is reproduced below:

“4. That it is submitted that the lands of village Shahbad Daulatpur were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under Section 6 of the Act dated 03.04.2000. The Award was also passed vide Award No. 29/02-03. It is submitted that the Hon’ble Supreme Court quashed the notification u/s 6 was issued on 20.03.2012 in SLP No. 3513/2007 and fresh section u/s 6 was issued on 20.03.2013 which was followed by Award No. 5/2014-15. The khasra numbers 24/22, and 26/21/1/1 were acquired in Award No. 29/02-03 where as proceeding of Khasra number 36/4, 25/24/1, 36/3, 25/24/2, 26/18-23, 35/1/1, 36/5, 24/21/1, 24/21/2 37/1/1, 35/2/2, 37/2, 23/23, 35/1/2/2, 37/3/1 falling in Award No. 29/2002-03 has been stayed by the Hon’ble High Court of Delhi. However, neither the possession of the subject land could be taken nor the compensation be paid. It is submitted that as per record, kh. No. 36//3min (2-11), 26//18min (4-0) 26//23min (4-7), 35/1/1(0-15) 37/1/1(0-11) has been acquired vide award no. 5/14-15. However possession could not be taken and compensation also not paid.”

10. Mr. Jain further submits that the fresh notification under Section 6 of the Act was issued within a period of one year of the judgment rendered by the Apex Court on 21.03.2012.
11. We have heard learned counsel for the parties.
12. The case of the petitioners with respect to Khasra Nos. (2-11), 26//18 min (4-0), 26//23 min (4-7), 35/1/1(0-15), 37/1/1 (0-11) is in our view is fully covered by the decision rendered in the case of *Sunil Goel (Supra)*, wherein the Division Bench has relied on a decision of Hon’ble Supreme Court in *Padma Sundara Rao V. State of Tamil*

Nadu reported in (2002) 3SCC 533.

13. Considering the time line there is no room for doubt that the fresh notification under Section 6 of the Act was not issued within a period of one year after deducting the time spent in Court and covered by the stay order granted by the Court i.e. around 8 months from the date of notification u/s 4 issued on 27.10.1999 before a period of stay granted by the High Court on 05.07.2000 and 03.08.2000 and one month from 09.07.2007 to 09.08.2007 before the period of stay granted by the Supreme Court. Further a period of 11 months 27 days from the date of judgment passed by the Supreme Court i.e. on 21.03.2012 to the date of declaration under Section 6 of the Act i.e. 20.03.2013. Resultantly, qua Khasra Nos. (2-11), 26//18 min (4-0), 26//23 min (4-7), 35/1/1(0-15), 37/1/1 (0-11), the notification dated 27.10.1999 under Section 4 of the Act and the fresh notification dated 20.03.2013 under Section 6 of the act are quashed.
14. Further, it is not disputed that for Khasra Nos. 24/22, 26/21/1/1, 36/4, 25/24/1, 36/3, 25/24/2, 26/18-23, 35/1/1, 36/5, 24/21/1, 24/21/2, 37/1/1, 35/2/2, 37/2, 23/23, 35/1/2/2, 37/3/1, neither compensation has been tendered nor physical possession has been taken. Since the essential and important ingredients of Section 24(2), 2013 Act are met out. The acquisition proceedings deserves to be lapsed u/s 24 (2) of the New Act. Resultantly, the Writ Petition is allowed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

MAY 22, 2018/rd