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

Date of Judgement: 18th July, 2018

+ **W.P.(C) 3535/2017**

HARMAN JASPAL & ANR

.....Petitioners

Through:

Mr. Jai Pal, Advocate.

Versus

GOVT. OF NCT OF DELHI & ANR

.....Respondents

Through:

Mr. P. Venkatesan proxy counsel for
Mr. Siddharth Panda, Adv. for LAC.

Mr. Roshan Lal Goel and Mr. Anju
Gupta, Advocates for DDA.

Mr. Sachin Nahar, Adv. for R-
1/GNCTD.

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 land bearing Khasra No.'s 636/2 (1-9), 690 (2-6), 702 (1-18), 694/1 (3-16), 700/2 (1-17), 691/2 (2-0), 700/1 (1-17), total measuring 15 Bighas 03 Biswas, situated in the revenue estate of village Neb Sarai, Tehsil Hauz Khas, Mehrauli, New Delhi (hereinafter referred 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 of the

subject land has been taken nor the compensation has been paid to the petitioners.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 05.11.1980 and a declaration under Section 6 was made on 21.05.1985. Thereafter, an award bearing no.12/1987-1988 was passed on 20.05.1985.
3. The counsel for the petitioners submits that since the possession of the subject land has not been taken and compensation in respect thereof has not been paid, thus the petitioners would be entitled to a declaration under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the New Act').
4. Mr. Yeeshu Jain, counsel for the LAC submits that actual vacant physical possession of the subject land has not been taken, and the amount of compensation was first sent to RD, and later on withdrawn vide R.V. No. 436 dated 07.05.1993.

Para.8 of the counter affidavit filed by LAC reads as under :-

"That in the present case, the possession of the land in question could not be taken over. The statement "A" of the Award No.12/87-88 is not traceable. An NCR has also been lodged with the P.S. Neb Sarai bearing LR. No.:0063/2017 dated 07/02/2017. However as per the Revenue Deposit Register, the total amount of Rs. 8,10,28,938/- of Award No. 12/87-88 was deposited in R.D. But the same was later withdrawn vide R.V. No. 136 dated 07.05.1993 for

the AWARD No.1/93-94 Village Kakrola Delhi as per Dy. Secy. (L&B) Letter No. F.19/(145/88-89/L&B/F.A-20392 dated 07.07.1992. "

5. Mr. Jain, further submits that the petitioners are claiming relief on the basis of Will, receipt etc. which cannot confer title on the petitioners.
6. Learned counsel for the petitioners submits that as far as objection with regard to the ownership is concerned, the case would be covered by the decision rendered by the Supreme Court in ***Govt. of NCT of Delhi vs. Manav Dharma Trust*** and another, reported in **2017 (6) SCC 751**.
7. We have heard learned counsels for the parties.
8. Having regard to the observation made by the Apex Court in ***Manav Dharma Trust*** (Supra), in our view the objection raised by Mr. Jain, learned Standing Counsel for LAC/L&B is misplaced. However, we make it clear that this order would not confirm any title of the petitioners. In the case of ***Manav Dharma Trust*** (supra), the Apex Court has held as under :

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

9. Reading of the counter affidavit filed by LAC makes it abundantly clear that the possession of the subject land has not been taken and the compensation in respect thereof has not been tendered to the petitioners as the compensation amount was first sent to RD but thereafter withdrawn vide R.V. No. 436 dated 07.05.1993 .
10. Taking into consideration the submissions made and the stand taken by LAC that possession of the subject land has not been taken and the compensation not been tendered to the petitioners, we are of the considered view that the necessary ingredients of Section 24 (2) of 2013 Act stand satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act and, having regard to the fact that the compensation has not been tendered, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is ordered accordingly.
11. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
12. The writ petition stands disposed of in above terms.

SANGITA DHINGRA SEHGAL, J

G.S.SISTANI, J.

JULY 18, 2018//gr