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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 9th August, 2018*

+ W.P.(C) 7962/2016
RAGHUVINDER YADAV & ANR Petitioners
Through: Mr.Akhil Sachar and Ms.Sunanda, Advs.

versus

THE LT. GOVERNOR, NATIONAL CAPITAL TERRITORY OF
DELHI & ORS Respondents
Through: Ms.Astha Tyagi, Advocate for L&B/LAC.
Mr.Dhanesh Relan, Standing Counsel with
Ms.Kajri Gupta, Advocate for DDA.

CORAM:

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

G.S.SISTANI, 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 pertaining to the land of the petitioners admeasuring 1786 sq. yards out of Khasra No.50/4 (0-8) 50/7(1-7.1/2) situated in the revenue estate of Village Pehladpur Bangar, National Capital Territory of Delhi, (hereinafter referred to 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 neither physical possession has been taken nor compensation has been paid to the petitioners.

2. Mr.Akhil Sachar, learned counsel for the petitioners submits that in this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 21.03.2003 and a declaration under Section 6 was made on 19.03.2004. Thereafter, an award bearing no. 06/2005-06/DC(N-W) was passed under Section 11 of the Land Acquisition Act, 1894 on 27.06.2005/12.07.2005.

3. Counsel for the LAC submits that the additional affidavit is ready and the same has been handed over in Court and taken on record.

4. It is the case of the petitioners that neither the physical possession of their subject land has been taken nor compensation has been paid. While relying on the counter affidavit filed by the LAC, learned counsel for the petitioners submits that the government could neither take the possession of the land in question nor pay compensation to the petitioners and thus, the petitioners would be entitled to a declaration that the acquisition proceedings are deemed to have lapsed in view of Section 24 (2) of the 2013 Act.

Paragraph 6 of the counter affidavit filed by the LAC reads as under:-

“That in the earlier counter affidavit it was inadvertently stated that the possession of the land in question has not been taken. The respondent herein tenders sincere apology

as the same was not intentional or deliberate but happened inadvertently. That the land bearing Khasra No.50/4(2-8), 50/7(4-16) has been acquired. Out of which, the possession of land bearing Khasra no.50/4(1-3) 50/7(1-2) situated in village Pehladpur Bangar was taken on 31.08.2005. The compensation for acquired land bearing Khasra No.50/7 (0-18) has been paid to its recorded owner.”

5. Counter affidavit has also been filed by the DDA, relevant portion of which reads as under:-

“After Notifications land in question has duly and legally been acquired vide Award No.06/2005-06/DC/NW. Physical possession of land of Khasra No.50//4m (1-03), 50//7m (1-02) was handed over by the LAC/L&B Department to the DDA on 31.08.2005. Possession of Khasra No.50//4m (1-05) and 50//7m (3-14) was not handed over by the LAC/L&B Department to the DDA due to built up. The land in question has been transferred to AE/RPD-IV/DDA on 31.08.2005 for Rohini Residential Scheme. Possession proceedings of Village Prahladpur Bangar dated 31.08.2005 acquired by the Award No.6/2005-06 are annexed hereto and marked as Annexure-R-1”.

6. We have heard learned counsels for the parties and perused the material available on record.

7. Reading of the counter affidavit filed by the LAC shows that in Khasra No.50/4, out of 2 Bighas and 8 Biswas possession of 1 Bigha and 3 Biswas has been taken and in Khasra No.50/7, out of 4 Bighas and 16 Biswas possession of 1 Bigha and 2 Biswas has been taken and

compensation only with respect to Khasra No. 50/7 (0-18) has been paid. However, compensation with respect to Khasra No.50/4 has not been paid and thus, the necessary ingredients of Section 24(2) of 2013 Act are accordingly met.

8. Having regard to the submissions made and the stand taken by the LAC in the counter affidavit, we are of the considered view that one of the necessary ingredients for the application of Section 24 (2) of 2013 Act stands satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have lapsed. It is ordered accordingly.

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

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 9, 2018
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