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

% *Date of Judgment: 21st February, 2018*

+ W.P.(C) 3911/2017

AJAY KUMAR & ORS. Petitioners

Through: Mr.B.S.Maan, Advocate

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr.Yeeshu Jain and Ms.Jyoti Tyagi,
Advocates for LAC/L&B.

Mr.Sanjeev Sabharwal, standing
counsel for DDA with Mr.Hem
Kumar, Adv.

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. On the last date of hearing, Mr.B.S.Maan, learned counsel for the petitioners had made the following statement:

“the petitioners confine their relief only to the land comprised in Khasra no.283(5-15), 284(1-18) and 901-902/289(02-03) total measuring 9 bigha 16 biswas and give up the relief pertaining to the remaining Khasra numbers”

3. For the sake of convenience 9 bigha 16 biswas of land as described above shall be referred to as ‘the subject land’.
4. This is a petition under Article 226 of the Constitution of India filed by the petitioners. The petitioners seek a declaration that the acquisition proceedings initiated with respect to 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 the '2013 Act'), as neither physical possession has been taken nor compensation has been tendered to the petitioners.

5. Counsel for the petitioners submits that in this case a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 13.11.1959. A Section 6 declaration was made on 06.12.1966 and thereafter an Award bearing no.40 of 1980-81 was rendered on 14.07.1980. Counsel for the petitioners submits that neither actual physical possession of the subject land has been taken nor compensation has been tendered.
6. Mr.Jain, counsel appearing for the LAC has drawn the attention of the Court to para 4 of the counter affidavit, which is reproduced as under:

“4.That an Award No.50/80-81 was also passed and the actual vacant physical possession of the subject land falling in khasra number 283 (5-15) and 284 (1-18) was duly taken on the spot on 19.7.1980 and handed over to the requisition agency by preparing possession proceeding on the spot whereas possession of khasra number 901-902/289 min (2-03) could not be taken and the compensation for all three khasra numbers was unpaid as per revenue records. The recorded owners of the subject land were Chandgi Ram and Kirpa Ram having ½ share each and all the legal heirs of the said recorded owners are not before the Hon'ble Court and not did challenge the acquisition proceedings.”

7. Relying on the aforesaid paragraph Mr.Jain, counsel for the LAC submits that compensation has not been tendered to the petitioners.
8. Counter affidavit has also been filed by the Delhi Development Authority (DDA). Counsel for the DDA while relying on paragraph 5

(vii) (c) of the counter affidavit submits that the possession could not be handed over to the DDA due to the area being built up.

9. We have heard the learned counsels for the parties.

10. Paragraph 5 (vii) (c) of the counter affidavit filed by the DDA, reads as under:

“5. (vii) (c)Khasra No.286 min (0-01), 901-902/289 (2-03), 286/2 (0-06), (0-07), 289 min (27-02) has not been handed over to the respondent-Delhi Development Authority by the LAC/Land and Building Department, Govt. of NCT of Delhi due to built up. ”

11. Having regard to the submissions made by the parties and the stand taken by the LAC in the counter affidavit, more particularly para 7, which we have reproduced in the foregoing paragraph, it is clear that the compensation has not been tendered to the petitioners, the award having been passed more than years prior to the commencement of 2013 Act, thus, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with respect to the subject land are deemed to have lapsed. It is ordered accordingly.

12. The petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

FEBRUARY 21, 2018

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