$~71

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

% *Date of Judgment: 12th September, 2018*

\+ W.P.(C) 8077/2016

PREM ARORA & ORS ..... Petitioners

Through: Mr Faheem Shah, Adv

versus

LAND ACQUISITION COLLECTOR (SOUTH-EAST) & ORS
..... Respondents

Through: Mr Siddharth Panda, Adv with
Mr Ankit Agarwal, Adv for
LAC/L&B
Ms Rukhmini Bobde, Adv 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 with respect to the land of the petitioners comprised in Khasra Nos. 2639/742 (1-16), 2639/742 (1-13) (claiming for 19 biswas), 854 (0-14), 2639/742 (1-06), 2639/742 (00-14), 2639/742 (0-9) total measuring 5 bighas 18 biswas situated in the revenue estate of village Tughlakabad, New Delhi (hereinafter referred 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 of the subject land has been taken nor compensation has been paid.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 23.01.1965 and a declaration under Section 6 was made on 13.01.1969. Thereafter, an award bearing no. 50A suppl./69-71 was passed on 04.11.1981 under Section 11 of the Act.

3. Mr. Shah, learned counsel appearing for the petitioners, has drawn the attention of the Court to para 7 of the counter affidavit filed by the LAC as per which compensation has not been paid to the petitioners. In view of the stand taken by the LAC in the counter affidavit, learned counsel for the petitioners submits that the petitioners would be entitled to a declaration under Section 24(2) of the Act.

4. Mr Yeeshu Jain, learned counsel for the LAC, submits that possession of the subject land has been taken over and handed over to the beneficiary department on 02.09.2006. However, the compensation was not paid to the petitioners. Para 7 of the counter affidavit filed by the LAC reads as under:-

"That possession of 6 bighas and 05 biswas of land in Khasra No. 2639/742 min was taken over and handed over to the beneficiary department on 02.09.2006. However, payment of compensation could not be paid to the recorded owners. ……"

5. Learned counsel for the DDA, submits that physical possession of the subject land was taken on 02.09.2006 and 16.03.2004 and handed over to DDA by LAC/L&B Department. The relevant portion of the counter affidavit filed by the DDA reads as under:-

"The possession proceedings with respect to the said land was undertaken on 02.09.2006 and 16.03.2004. As per the possession proceedings dated 02.09.2006, the land bearing Khasra No. 2636/742 min (6-05) has been handed over to DDA the balance land (0-2) has not been handed over to DDA by LAC/L&B Dept due to a temple that has been constructed on it. As per payment register related to the Award in question, the entry of Village Tuglakabad is not available. However, it is stated that in the year 1980, the payment of compensation was released through the Commissioner of L&H to the concerned LAC's at the time of the announcement of the award in question."

6. We have heard learned counsels for the parties.

7. Having regard to the categorical stand taken in the counter affidavit filed by the LAC that compensation has not been paid to the petitioners, and also taking into consideration the fact that the award having been announced five years prior to the commencement of the 2013 Act, in our view, the petitioners are entitled to a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed.

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

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 12, 2018
SU

HIGH COURT OF DELHI
सत्यमेव जयते