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

% *Date of Judgment: 19th February, 2018*

+ W.P.(C) 8138/2016

ISHRAT ALI

..... Petitioner

Through: Mr. Rajeev Kumar Ghawana, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Siddharth Panda, Advocate for
LAC/L&B.

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 the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings pertaining to land of the petitioner comprised in Khasra Nos. 409 admeasuring 250 Sq. Yards in the revenue State of Village Jasola, Delhi (hereinafter referred to as 'the Subject Land') is deemed to have been 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 compensation has been paid to the petitioner.
2. Counsel for the petitioner submits at the outset that the acquisition proceedings with respect to the same Khasra number i.e. 409 has already lapsed in terms of the order passed by this Court in W. P. (C)

1880/2017 titled as Sarfaraz Ahmad Vs. Govt. of NCT of Delhi & Ors. and identical objections raised by the respondents have not been accepted by the Court.

3. In this case, a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 23.06.1989, a declaration under Section 6 of the Act was issued on 22.06.1990 and an Award bearing No.21/1992-93 was passed on 18.06.1992.
4. Counter affidavit has been filed by LAC. As per para 7 of the counter affidavit, compensation has not been paid to the recorded owners based on the Naksha Mutzamim. However, an objection has been raised with regard to the locus standi of the petitioner.
5. We have heard learned counsel for the parties.
6. Para 7 of the counter affidavit reads as under:

"7. That as per the records, out of 53 bighas and 02 biswas of land in Khasra No. 409, possession of 14 bighas and 15 biswas was taken over and handed over to the beneficiary department on 16.07.2017. However, as per the Naksha Mutzamin compensation was not paid to the recorded owners. Further, the petitioner is not the recorded owner and has not placed on record any documents which could show that he is the owners of the land in question. The agreements to sell are not registered documents and thus cannot be taken as valid documents. Further, no document has been placed on record to show that the land in question has been purchased from recorded owner. Moreover, the present petitioner was having full knowledge about the status of the land in question and without taking permission from the competent authority as required under Delhi Land (Restriction of Transfer) Act, 1972 have purchased the lands. Such sale/purchase is void and does not bind the Government in any manner. Since, the petitioner is

subsequent purchaser, they don't have any right to seek release of the land in question. Thus, the petitioner has no locus to file the present writ petition and seek any relief with respect to the above said khasra numbers."

7. It may be noted that the subject land pertains to khasra No. 409, two writ petitions pertains to Khasra No. 409 being W. P. (C) 1880/2017 and 3714/2015 have already been allowed.
8. Learned counsel for the petitioner submits that the petitioner is the subsequent purchaser of the subject land and copies of Agreement to Sell, GPA's, Will, receipts, affidavits and delivery of possession have been filed on record. He further submits that his 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**.
9. 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."

10. Having regard to the observation made by the Apex Court in ***Manav Dharma Trust (Supra)***, in our view the objection raised by learned counsel for LAC/L&B is misplaced. However, we make it clear that

this order would not be deemed to be an expression on the title of the petitioner.

11. Reading of the counter affidavit would show that the compensation has not been paid to the recorded owner. Resultantly, it is declared that the acquisition proceedings pertaining to land of the petitioner is deemed to have lapsed in view of Section 24 (2) of 2013 Act . We accept the undertaking given by the petitioner that they have not received the compensation and they shall remain bound by the same. Should it be proved otherwise, it would amount to making a false statement to the Court.
12. Since, the award having been announced more than five years prior to the commencement of the 2013 Act, the compensation not having been paid, the petitioner is entitled to declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly.
13. The writ petition stands disposed of.

CM APPLN. No. 33699/2016

The present application stands disposed of in view of the order passed in the writ petition.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 19, 2018

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