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

% *Date of Judgment: 22<sup>nd</sup> February, 2018*

+ W.P.(C) 8540/2016  
AZHAR AHMED

..... Petitioner

Through: Mr. Sonal Anand and Mr. Aayush Sai,  
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for  
LAC/L&B with Ms. Jyoti Tyagi, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

**G.S.SISTANI, J. (ORAL)**

1. Previous order has not been complied with, however the counter affidavit has been handed over in Court today. Same is taken on record.
2. With the consent of the parties, the present writ petition is set down for final hearing and final disposal.
3. 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. 57 (1-08) measuring 01 Bigh 08 Biswa situated in the revenue State of Village Beholpur, Khader Tehsil, Mehrauli, New 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 has been taken nor compensation has been paid to the petitioner.

4. Learned counsel for the petitioner submits that 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. 15/1992-93 was published on 18.06.1992.
5. Learned counsel appearing for the LAC relies on para 4 of the counter affidavit to contends that as per Statement Á', the compensation with respect to the land which is subject matter of the writ petition, could not be paid.
6. We have heard learned counsel for the parties.
7. We deem it appropriate to re-produce para 4 of the counter affidavit filed by the LAC, which reads as under:

*"4. That it is submitted that the lands of village Behlopur Khadar were notified vide Notification under Section 4 of the Land Acquisition Act 1894 dated 23.06.1989 which was followed by Notification under Section 6 of the said Act vide Notification dated 22.06.1990 and the then Land Acquisition Collector also passed an Award bearing No. 15/92-93 dated 18.6.1992. The actual vacant phusical possession of the land measuring 25bigha out of the total land measuring 28 bigha 7 biswa falling in khasra number 57 was duly taken on the spot on 21.04.2006 and handed over to the DDA on the spot by preparing possession proceedings and remaining land measuring 03 bighas 07 biswas possession not taken due to relivious structure as the land was acquired for channelization of river Yamuna. The petitioner has been claiming the relief of (1-08) on the basis of Gift Deed executed by his Father in the year 2013 and*

*alleged that the petitioner is still in possession of the subject land though no photographs have been attached. It is however submitted that as per statement 'A', the compensation of the said land which is the subject matter of the present writ petition could not be paid. "*

8. Reading of para 4 of the counter affidavit extracted hereinabove would leave no room for doubt that the compensation has not been tendered to the petitioner. As far as possession is concerned, it is the stand of LAC that out of total land measuring 28 Bigha 7 Biswas falling in Khasra No. 57, the possession has been taken except the land measuring 3 Bigha and 7 Biswa.
9. Having regard to the fact as admitted in the counter affidavit that the compensation has not been tendered and part possession has not been taken, 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.
10. The writ petition stands disposed of.

**CM APPLN. No. 35227/2016**

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 22, 2018 / gr**