

\$~32

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

% *Date of Judgment : 22nd February, 2018*

+ W.P.(C) 9062/2016

DUNGER SINGH TOKAS & ORS.

..... Petitioners

Through: Mr. A. K. Singla, Senior Advocate with
Mr. Abhimanyu Singh Khatri, Advocate.

versus

UOI & ORS.

..... Respondents

Through: Mr. Mohit Bhardwaj, GP with
Ms. Rashmi Pandey, Advocate for UOI.
Mr. Sanjay Kumar Pathak, Advocate with
Ms. K Kaomudi Kiran, Mr. Sunil Kumar
Jha and Mr. Kushal Raj, Advocates for
LAC/L&B.
Ms. Mrinalini Sen and Mr. Shatrajit
Banerji, Advocates for DDA.

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. This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking that the acquisition proceedings with respect to the land of the petitioners comprised in Khasra No. 582/175 measuring 1 Bigha 1 Biswa situated in the revenue estate of Village Kusumpur, Delhi (hereinafter referred to as '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.

3. Mr. Singla, learned Senior Counsel appearing for the petitioner submits that that a Section 4 notification of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 23.01.1965 followed by a notification under Section 6 of the Act issued on 06.09.1966 and an Award bearing No. 2181-C/Suppl., which was supplementary to Awards Nos. 2181-A/Suppl. And 2181-B/Suppl.
4. Learned Senior Counsel has placed reliance on Section 24 (2) of 2013 Act to seek the relief so prayed.
5. Mr. Pathak, learned counsel for the LAC/L&B placed reliance on para 8 of the counter affidavit to contends that the possession of the subject land was taken on 15.11.1980. As far as compensation is concerned, it is submitted that as per Naksha Muntzamin, the compensation amount has been paid to the recorded owners against other numbers with respect to the Khasra No. 582/175 (1-01) the payment status is not mentioned.
6. Learned Senior Counsel for the petitioner submits that reading of para 8 of the counter affidavit would show that there is record available to suggest that compensation has been tendered to the petitioners which is not disputed by learned counsel for LAC.

7. We have heard learned counsel for the parties.
8. Para 8 of the counter affidavit filed by the LAC, reads as under:

“That as regards possession and compensation it is humbly submitted that as per possession proceeding report possession of subject land i.e. KHasra No.582/175 (1-01) was taken on 05.11.1980. So far as compensation amount is concerned, it is humbly submitted that Naksha Muntzamin is in very old and torn condition. As per Naksha Mutzamin, recorded owner of the subject land is Shiv Dayal S/o Dharmu at item No.95. It is humbly submitted that compensation amount paid is recorded against other item Nos. but in respect of Khasra No.582/175 (1-01) the payment status is not mentioned.”

9. Reading of para 8 of the counter affidavit would show that there is no record available to show that compensation was infact so paid to the petitioners. The counter affidavit simply states that with respect to the Khasra NO. 582/175 (1-01), the payment status is not mentioned. A statement is made on behalf of the petitioners that they have not received the compensation.
10. In view of the above discussion, the petitioners are entitled to a declaration under Section 24 (2) of 2013 Act as per which in case either compensation has not been tendered or possession is not taken, the acquisition proceedings would deemed to have been lapsed. It is ordered accordingly that the acquisition proceedings with respect to the subject land of the petitioner stands lapsed.

11. We make it clear that this statement made by the petitioners would be treated as an undertaking to the Court that in case, it is found that the statement is found false, the petitioners would be liable for perjury.

G. S. SISTANI, J

SANGITA DHINGRA SEHGAL, J

FEBRUARY 22, 2018
gr



न्यायमेव जयते