

\$~24

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

% *Date of Judgment: 27th August, 2018*

+ W.P.(C) 5053/2017

ANIL KUMAR SHARMA & ORS. Petitioners

Through Mr. Sunil K. Goel with Mr. R.S.

Baghel, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

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

Ms. Mrinalini Sen with Ms. Kritika
Gupta, Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Counter affidavit of LAC has been handed over in Court. The same is taken on record.
2. This petition has been filed by the petitioners under Article 226 of the Constitution of India seeking a declaration that the acquisition proceedings initiated in respect of the land of petitioners comprised in Khasra no.1146 measuring 14 bighas 8 biswas, situated in the revenue estate of village Mehrauli, District South, New Delhi (hereinafter referred to 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 the '2013 Act'), as neither compensation has

been tendered to the petitioners nor possession of the subject land has been taken.

3. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 23.01.1965. Thereafter Section 6 declaration was made on 07.12.1966. An Award bearing no.80-E/70-71 was rendered on 09.01.1981.
4. Counsel for the petitioners submits that in this case neither compensation has been tendered to the petitioners nor possession of the subject land has been taken and thus, the petitioners are entitled for a declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed.
5. Counter affidavit has been filed by the LAC. Para 5 of the counter affidavit filed by the LAC reads as under:

“5. That it is submitted that the lands of village Mehrauli were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 23.1.1965 which was followed by the Notification under section 6 of the Act dated 7.12.66. The Award was also passed vide Award No.80-E/70-71 dated 9.1.1981 however the possession of the land falling in khasra number 1146 (14-08) could not be taken due to built up nor the compensation be paid.”
6. We have heard the learned counsels for the parties and considered their rival submissions.
7. Reading of the counter affidavit filed by the LAC leaves no room for doubt that no compensation has been tendered to the petitioners nor possession of the subject land has been taken and thus, the necessary ingredients of Section 24(2) of 2013 Act are accordingly met.

8. Having regard to the fact that neither compensation has been tendered to the petitioners nor possession of the subject land has been taken and since the Award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act, thus, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to the subject land are deemed to have lapsed. It is ordered accordingly.
9. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

AUGUST 27, 2018

rb