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

Date of Judgment: 5th March, 2018

+ **W.P.(C) 5396/2015**

JAI KISHAN GOEL

.....Petitioner

Through: Mr. Sandeep Bajaj with Mr.M. Tandon,
Advocates.

Versus

GOVT. OF NCT OF DELHI & ANR.

.....Respondents

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

Mr.Dhanesh Relan, Standing Counsel for
DDA with Ms.Akshita Manocha and
Ms.Kajri Gupta, Advocates.

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 petitioner seeking a declaration that the acquisition proceedings with respect to land measuring 5 bighas comprised in Khasra Nos.27/17 (2-4) and 27/18 (2-16) situated in the revenue estate of village Kakrola, Delhi (hereinafter referred as the 'subject land') stand 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 actual physical possession of the subject land has been taken nor the compensation in respect thereof has been paid to the petitioner.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 06.06.1991 and a declaration under Section 6 was made on 06.12.1991. Thereafter, an award bearing no.1/93-94 was passed on 02.04.1993.
3. Mr.Sandeep Bajaj, learned counsel for the petitioner submits that as neither the actual physical possession of the subject land has been taken nor the compensation in respect thereof has been paid, the petitioner would be entitled to a declaration under Section 24 (2) of 2013 Act.
4. On the other hand, Mr. Yeeshu Jain, counsel for the LAC submits that actual physical possession of the subject land has not been taken due to area being built up and the compensation was not paid to the petitioner.
5. Relevant para of the counter affidavit filed by the LAC, reads as under:

“That it is submitted that the physical possession of the lands under reference was not taken over due to built up and compensation with respect to the above said land was also not be paid.”

6. Counter affidavit has also been filed by the DDA, relevant portion of which reads as under :-

"4(i) The present petition is barred by inordinate delay and laches as petitioner herein has approached this Hon'ble Court challenging the acquisition of the writ land in respect of land of Khasra No. 27//17 (2-4) & 27//18 (2-16) of Village Kakrola. As per Land Record of Village Kakrola land of the aforesaid Khasras stands duly notified under Section 4 vide Notification No. F10(6)/88-L&B dated 6.6.1991 and Declaration U/s. 6 of the Land Acquisition Act, vide Declaration Notification No.F10(6) 88-L&B (ii) dated 6.12.1991 for public purpose for Planned Development of Delhi, under the provisions of the Land Acquisition Act. After Notifications land has duly, validly and legally been acquired under Award No. 1/93-94. However, physical possession of land of above said Khasras has not been handed over to the answering Respondent by the Land Acquisition Collector/Land and Building Department of the Govt. of NCT of Delhi. The compensation for Award No.1/93-94 of Village Kakrola has already been validly and legally sent to the Land Acquisition Collector/Land and Building Department, Delhi vide Cheque No.212973 dated 31.05.1993 for Rs.3,00,00,000/- (Rupees Three Crores Only). Petitioner has got absolutely no right, title or interest over the land subject matter of the petition and the award has become final, binding and conclusive."

7. We have heard learned counsel for the parties.
8. Taking into consideration the submissions made and the categorical assertion made in the counter affidavit filed by LAC that neither the actual physical possession of the subject land has been taken nor the

compensation has been paid to the petitioner and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioner is entitled to a declaration under Section 24 (2) of 2013 Act 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.

CM No.9725/2015 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 5th, 2018
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