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

% *Date of Judgment: 04th January, 2018*

\+ W.P.(C) 6122/2015

MEHBOOBUR-REHMAN ..... Petitioner

versus

UNION OF INDIA AND ORS. ..... Respondents

\+ W.P.(C) 6133/2015

ABIDA SHAMIM ..... Petitioner

versus

UNION OF INDIA AND ORS. ..... Respondents

\+ W.P.(C) 6137/2015

TANVIR BEGUM ..... Petitioner

versus

UNION OF INDIA AND ORS. ..... Respondents

\+ W.P.(C) 6142/2015

SAAD FIROZ ..... Petitioner

versus

UNION OF INDIA AND ORS. ..... Respondents

Present: Mr.M.P.Bhargava, counsel for the petitioners in all the matters.
Mr.Siddharth Panda, counsel for the LAC/L&B deptt. in all the matters.
Mr.Rahul Bakshi and Mr.Nishant Sharma, Advocates for the DDA in item no.20.
Mr.Sanjeev Sabharwal, Standing counsel for the DDA in item no.21.
Mr.Arjun Pant, Advocate for the DDA in item no.22.
Mr.Dhanesh Relan and Ms.Akshita Manocha, advocates for the DDA in item no.23.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

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

1. Although these writ petitions have been heard separately, but for the sake of convenience a common judgment is being rendered.

2. The petitioners in these writ petitions seek benefit 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') which came into effect on 01.01.2014.

3. 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 Act was made on 22.06.1990. Thereafter, the Land Acquisition Collector passed an Award bearing no.15/92-93 on 19.06.1992. The petitioners claim that the acquisition proceedings qua the lands of the petitioners stand lapsed as neither possession has been taken nor compensation has been paid. The details of the land of each of the petitioners is extracted below:

Sl. No.	W.P.(C) No.	Name of the petitioner	Details of the subject land	
1.	6122/2015	Mehboobur Rehman	1 bigha 10 biswas	All situated in Khasra No.61min in the revenue estate of Village Behlolpur Khadar, Tehsil, Mehrauli, NCT of Delhi
2.	6133/2015	Abida Shamim	10 biswas	
3.	6137/2015	Tanvir Begum	10 biswas	
4.	6142/2015	Saad Firoz	10 biswas	

4. Counsel for the petitioners has drawn the attention of the Court to the counter affidavit filed by the LAC wherein it has been admitted that compensation has not been paid to the recorded owners. Counsel for the petitioners disputes that actual physical possession has been taken and submits that the petitioners continue to remain in actual physical possession till date. Counsel for the petitioners further contends that acquisition proceedings with respect to the land measuring 5 biswas already stand lapsed by a decision rendered by a Co-ordinate Bench of this Court on 25.08.2015 in W.P.(C) 4370/2015 and the said judgment stands upheld by the Supreme Court by an order dated 31.08.2016 in Civil Appeal No.8653/2016 titled as ***Delhi Development Authority vs. Shamim Qureshi and Others***, except the modification of the judgment to the extent, as detailed below:

> "4. In the peculiar facts and circumstances of this case, the appellant is given a period of one year to exercise its liberty granted under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for initiation of the acquisition proceedings afresh.
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> 5. We make it clear that in case no fresh acquisition proceedings are initiated within the said period of one year from today by issuing a Notification under Section 11 of the Act, the appellant, if in possession, shall return the physical possession of the land to the original land owner."

5. Counsel for the petitioners submits that this Court may also pass a similar order as passed by the Apex Court. Learned counsels for the DDA submit that the land was acquired for the purpose of Yamuna Channelization Scheme.

6. We have heard learned counsels for the parties.

7. The acquisition proceedings qua part of the land measuring 5 biswas has already been declared to have lapsed vide order dated 25.08.2015 in W.P.(C) 4370/2015. This order has also attained finality, except the modification which we have extracted hereinabove.

8. Without going into the controversy of physical possession, since the award was made 5 years prior to the commencement of 2013 Act and the compensation has not been paid, in our view, the necessary ingredients for the application of Section 24(2) of the New Act as has been interpreted by the Supreme Court of India and this Court in the following cases stand satisfied:

   (1) ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors.,*** reported at (2014) 3 SCC 183;
   (2) **Union of India and Ors v. Shiv Raj and Ors.,** reported at (2014) 6 SCC 564;
   (3) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors,** Civil Appeal no.8700/2013 decided on 10.09.2014;
   (4) **Surender Singh v. Union of India & Others,** W.P.(C).2294/2014 decided on 12.09.2014 by this Court; and
   (5) **Girish Chhabra v. Lt. Governor of Delhi and Ors;** W.P.(C).2759/2014 decided on 12.09.2014 by this Court.

9. The petitioners are accordingly entitled to a declaration that the subject land(s) are deemed to have lapsed. It is accordingly so declared. However, in the peculiar facts and circumstances of these cases, the respondents are given a period of one year to exercise its liberty granted under Section 24(2) of 2013 Act of the right for initiation of acquisition proceedings afresh. It is also made clear that in case no fresh acquisition proceedings are initiated within the said period of one year from today by issuing a Notification under Section

11 of the Act, the respondents, if in possession, shall return the physical possession of the land(s) to the original land owner(s).

10. The writ petitions stand disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JANUARY 04, 2018
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HIGH COURT OF DELHI
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