

\$~42

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

% *Date of Judgment: 9th August, 2018*

+ W.P.(C) 10211/2016

RAVINDER KUMAR

..... Petitioner

Through: Mr Rajesh Gupta, Mr Harpreet and
Mr Pranjal Sareen, Advs

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Sachin Nawani, Adv for LAC
Mr Arun Birbal and Mr Sanjay Singh, Advs
for DDA

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 the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings pertaining to land of the petitioner comprised in khasra No. 4//2 min, land admeasuring 1 bigha 01 biswa situated in the revenue estate of Village Kirari Suleman Nagar (Patti Nithari), Delhi, 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 '2013 Act') as neither physical possession of the subject land has been taken nor compensation has been paid.

2. In this case, a notification under Section 4 of the Land Acquisition Act 1894 was issued on 21.03.2003, Section 6 declaration was made on 19.03.2004 and thereafter an award bearing No.25/2005-06/DC-(NW) was passed by the Land Acquisition Collector on 06.02.2006.

3. Mr Gupta, learned counsel for the petitioner, submits that since the actual physical possession of the subject land has not been taken and compensation in respect thereof has not been paid, thus the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act.

4. Mr Nawani, learned counsel appearing for the LAC, submits that physical possession of 1 bigha of the land falling in khasra No. 4//2 has not been taken over as built up structures existed on that area. As far as payment of compensation is concerned, it has not been paid. Relevant paragraph of the counter affidavit filed by the LAC reads as under:-

“7. That out of the abovementioned land, the possession of 3 bigha 9 biswa was taken over and handed over to the beneficiary department, Delhi Development Authority on 13.10.2006, whereas the possession of the remaining 1 bigha of the land falling in khasra No. 4//2 has not been taken over being built up structures existed at the area. It is pertinent to mention here that it cannot be ascertained as to from which recorded owner the possession of the vacant land has been taken over and as to which recorded owner's portion is lying built up, since part possession of the land has been taken over from the entire khasra number acquired

and no titamma of the khasra number was carved out. As per records the awarded compensation in favour of Shri Ravinder at item No. 265 has not been paid.”

4. The learned counsel for the DDA submits that the land is in possession of RPD-7 of DDA since 18.10.2006. Para (ii) & (iii) of the counter affidavit filed by the DDA read as under:-

“(ii). ...The said land was acquired vide the award bearing no. 25/2005-06 dated 06.02.2006. Physical possession of the subject matter land was taken over by the Government of NCT of Delhi through the LAC on 13.10.2006 and handed over to DDA on the same day.... The land is in possession of RPD-7 of the DDA since 18.10.2006....

(iii) ... the compensation in respect of the subject matter land could not be paid due to personal reasons of the petitioner as one Attar Singh son of Risal Singh raised objections against release of compensation to the petitioner...”

5. We have heard the learned counsel for the parties and perused the material on record.

6. Reading of the counter affidavit filed by LAC and DDA makes it abundantly clear that neither the physical possession of the subject land has been taken over nor the compensation has been paid to the petitioner.

7. Taking into consideration the submissions made and the stand taken by LAC that physical possession of the subject land has not been taken and

compensation has not been paid to the petitioner, we are of the considered view that the ingredients of Section 24 (2) of 2013 Act stand satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act and, having regard to the fact that the physical possession has not been taken over and compensation has not been tendered, the petitioner is entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land is deemed to have been lapsed. It is ordered accordingly.

8. In above terms, the writ petition stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 9, 2018
SU