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

% *Date of Decision: 22nd May, 2018*

+ W.P.(C) 10570/2016

NAFE SINGH AND ORS

..... Petitioners

Through: Mr S.K. Raout and Mr Aman
Mehrotra, Advs

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr Yeeshu Jain with Ms Jyoti Tyagi,
Advs for LAC

Mr Sanjeev Sabharwal, SC with

Mr Hem Kumar and Ms Simmee
Kumari, Advs for DDA

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The present petition has been filed under Article 226 of the Constitution of India whereby the petitioners seek a declaration that the acquisition proceedings with respect to their land (half share) falling in khasra Nos. 770/523, ad-measuring 8 bigha 19 biswas situated in Village Sultanpur Majra, District-North West, 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 '2013 Act') as the compensation has not been tendered although the physical possession stands taken. At the outset, learned counsel for the petitioners submits that since after taking possession the land has been utilized, he restricts his claim only to compensation as per the New Act.

2. In the present case, a notification under Section 4 of the Land Acquisition Act was issued on 20.08.1976 (wrongly mentioned in the petition as 03.10.1981) and a declaration under Section 6 of the Act was made on 20.08.1976 (wrongly mentioned in the petition as 02.09.1983). Thereafter, an award bearing No. 27(supp)/1984-85 was announced on 10.07.1984. The petitioners have relied on the counter affidavit which has been filed by the LAC as per which the compensation has not been tendered.

3. Learned counsel for the LAC has also placed reliance on para 4 of the counter affidavit, which we reproduce below:-

“4. That it is submitted that the lands of village Sultanpur Majra were notified vide Notification under section 4, 6 and 17 of the Land Acquisition Act, 1894 dated 20.08.1976 which was followed by Award No. 27(supplementary)/84-85 dated 10.07.1984 and the actual vacant physical possession of the subject lands was taken on the spot on 25.09.1981 and handed over to the DDA by preparing possession proceeding on the spot. The recorded owner never turned up to claim compensation which is lying unpaid and claim of the petitioners would constitute ½ share in the subject land as they are claiming through one Ghisu. It is further submitted that after

the possession was taken of the lands notified under the said Award from the recorded owners/ petitioners herein, the acquisition proceedings became complete, final and binding as the petitioners thereafter never challenged the same before any Court of law.”

4. Counsel for the DDA submits that the possession of the subject land has been taken and utilized for Sultanpuri JJ Colony.

5. We have heard the learned counsel for the parties and considered the rival submissions.

6. Having regard to the submissions made and more particularly the stand taken by the LAC in their counter affidavit that the compensation has not been tendered, and since the award having been announced more than five years prior to the commencement of the 2013 Act, in our view, the petitioners would be entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with regard to half share of the subject land are deemed to have lapsed.

7. Resultantly, the writ petition is allowed. The petitioners will only be entitled to compensation as per the new Act as prayed which shall be paid within a period of one year.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

MAY 22, 2018 / SU