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

% *Date of Judgment: 22<sup>nd</sup> February, 2018*

+ W.P.(C) 10780/2016

RAJESH AGRAWAL

..... Petitioner

Through: Mr. Anoop Singh Saroha, Advocate with  
petitioner in person.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for  
L&B/LAC with Ms. Jyoti Tyagi, Advocate.  
Mr. Arjun Pant, Advocate for DDA with  
Mr. Mayank Mukharjee, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

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

1. Previous order has not been complied with. Counter affidavit has not been filed. Counter affidavit has been handed over in Court today. Same is taken on record.
2. 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. 175 admeasuring 01 bigha out of 11 bigha 4 biswa situated in the revenue estate of Village Shahbad Daulatpur, Delhi (hereinafter referred to as 'Subject land') has 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 the physical possession has been taken nor the compensation has been paid.

3. In this case, a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as ‘the Act’) was issued on 28.04.1995, declarations under Section 6 of the Act was issued on 26.04.1996 and 26.04.2013. An award bearing No.1/1998-99 was rendered on 24.04.1998.
4. Learned counsel for the petitioner submits that the entire physical possession of the land has not been taken nor the compensation has been rendered.
5. As per the counter affidavit handed over in Court today, Mr.Jain, counsel for the LAC submits that the petitioner Sh. Rajesh Aggarwal is the recorded owner of the subject land and further physical possession of the subject land could not be taken nor the compensation could be paid.
6. We have heard learned counsel for the parties.
7. The petitioner has prayed for a declaration that the acquisition proceeding with respect to his land is deemed to have lapsed. Reliance has been placed on Section 24 sub Section 2 of 2013 Act which is reproduced below:

“24 (2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance

with the provisions of this Act: Provided that where an award has been made and compensation in respect of a majority of land holding has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

8. Para 7 of the counter affidavit filed by the LAC reads as under:

*“7. That the petitioner (Shri. Rajesh Agarwal) herein is the recorded owner mentioned as item no.238 of the Revenue Record and it is submitted that the physical possession of the lands bearing Khasra No. 175(01-0) comprising of 1 bigha, situated in the revenue estate of Village Shahbad Daulatpur could not be taken nor compensation of the same could be paid.”*

9. Reading of the counter affidavit would show that the conditions as envisage in Section 24(2) of 2013 Act stands satisfied as neither physical possession of the land has been taken nor the compensation has been tendered. Resultantly, the petitioner is entitled to a declaration that the acquisition proceedings are deemed to have lapsed in view of Section 24 (2) of 2013 Act. It is ordered accordingly.

10. The writ petition stands disposed of.

**G. S. SISTANI, J.**

**SANGITA DHINGRA SEHGAL, J**

**FEBRUARY 22, 2018**  
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