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

% *Date of Judgment: 16th February, 2018*

+ **W.P.(C) 10876/2016**

ATTAR SINGH

..... Petitioner

Through: Mr.V.P.Rana and Mr.Prem Garg,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
respondent/L&B-LAC.
Mr.Dhanesh Relan, Standing Counsel
with Ms.Akshita Manocha, Ms.Komal
Sorout and Ms.Gauri Chaturvedi,
Advocates for respondent/DDA.

+ **W.P.(C) 10881/2016**

J P GUPTA

..... Petitioner

Through: Mr.V.P.Rana and Mr.Prem Garg,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
respondent/L&B-LAC.
Ms.Sapna Chauhan, Advocate for
respondent/DDA.

+ W.P.(C) 10885/2016

BALWANT SINGH

..... Petitioner

Through: Mr.V.P.Rana and Mr.Prem Garg,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Sanjay Kumar Pathak,
Mrs.K.Kaomudi Kiran Pathak &
Mr.Sunil Kumar Jha, Advocates for
respondent/L&B-LAC.
Mr.Dhanesh Relan, Standing Counsel
with Ms.Akshita Manocha, Ms.Komal
Sorout and Ms.Gauri Chaturvedi,
Advocates for respondent/DDA.

+ W.P.(C) 10887/2016

SUDHA GUPTA

..... Petitioner

Through: Mr.V.P.Rana and Mr.Prem Garg,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
respondent/L&B-LAC.
Ms.Sapna Chauhan, Advocate for
respondent/DDA.

+ W.P.(C) 10892/2016

SAROJ BALA

..... Petitioner

Through: Mr.V.P.Rana and Mr.Prem Garg,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti Tyagi, Advocate for
respondent/L&B-LAC.

Mr.Dhanesh Relan, Standing Counsel
with Ms.Akshita Manocha, Ms.Komal
Sorout and Ms.Gauri Chaturvedi,
Advocates for respondent/DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Pleadings are complete.
2. With the consent of the parties, the writ petitions are set down for final hearing and disposal.
3. Arguments have been addressed individually, however, for the sake of convenience the writ petitions are being disposed of, by this common judgment.
4. Present petitions have been filed under Article 226 of the Constitution of India by the petitioners seeking a declaration that the acquisition proceedings pertaining to their respective shares in the lands 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').

5. The details of the writ petitions, name of the petitioners, Khasra numbers and villages are detailed below:-

Sl.No.	W.P.(C) No.	Name of the Petitioner	Khasra No.	Village
1.	10876/2016	Attar Singh	43/12 min (1-4), Khata Khatauni No.34/18	Mohammadpur Majri, Delhi
2.	10881/2016	J.P.Gupta	43/7 min (2-12), Khata Khatauni No.3/2	Mohammadpur Majri, Delhi.
3.	10885/2016	Balwant Singh	26/21(4-16), 36/1(4-16), 10(4-16), 11(4-16) & 38/4 (4-12) total measuring 23 bighas 16 biswas, Khata Khatauni No.204/100	Mohammadpur Majri, Delhi.
4.	10887/2016	Smt.Sudha Gupta	43/7 min (2-0), Khata Khatauni No.3/2	Mohammadpur Majri, Delhi.
5.	10892/2016	Smt.Saroj Bala	43/12 min (1-0), Khata Khatauni No.35/18	Mohammadpur Majri, Delhi.

6. We may note that all the writ petitions pertain to Village Mohammadpur Majri, Delhi.
7. In this case, a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 21.03.2003, a declaration under Section 6 of the Act was issued on

19.03.2004 and an Award bearing No.20/2005-06 was passed on 28.11.2005. It is the common case of all the petitioners that neither possession of the land has been taken nor compensation has been tendered to the petitioners.

8. In the counter affidavits filed by the LAC, a consistent stand has been taken that the compensation has not been tendered. No notice under Section 12 (2) of the Act was issued to any of the petitioners calling upon them to accept the compensation.
9. As far as the possession of land is concerned, the same is noticed writ petition-wise as follows:-

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10. The stand of the LAC is that the possession of the land of the petitioners was taken on 02.08.2006; however, the compensation has not been paid to the petitioners. As per counter affidavit filed by the DDA, the possession has been handed over to them by the LAC.

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11. Para 9 of the counter affidavit filed by the LAC reads as under:-

“That as regards possession and compensation it is humbly submitted that as per possession proceeding report, possession of Khasra No.26//21 min (4-14), 36//1(4-16), 36//10 min(4-14), 36//11(4-16), total measuring 19 bigha has been taken on 02.08.2006. Possession of remaining land comprised in khasra nos.26//21 min(0-2), 36//10 min (0-2), 38//4 min(4-12) total admeasuring 4 bigha 16 biswa has not been taken. So far compensation amount is concerned, it is humbly submitted that compensation amount has not been paid”.

As per counter affidavit filed by the DDA, the possession of entire land has been taken but counsel points out that in the subsequent

comments received, the possession of part of the land admeasuring 0 bigha 4 biswa has not been taken.

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12. Counsel for the petitioners submits that in view of the admitted position that the compensation has not been tendered, the case of the petitioners would squarely fall within the provision of Section 24(2) of 2013 Act. He further submits that actual physical possession of entire land pertaining to all five writ petitions is with the respective petitioners.
13. We have heard the counsel for the parties.
14. A reading of Section 24(2) of 2013 Act would show that in case, the physical possession of the acquired land has not been taken or the compensation has not been tendered to the land owners, the acquisition proceedings would lapse.
15. We may also note that in all these matters as stated during the course of hearing, the Collector had not issued any notice under Section 12(2) of the Act, of his award to the land owners.
16. Counsel for the petitioners also submits that the petitioners at no point of time refused the acceptance of compensation directly or indirectly by approaching any court by filing any writ petition or seeking any stay in the matter.
17. Counsel for the DDA on subsequent comments received has submitted that the land in question is required for Smart City.

18. There is nothing before us to show that land has been put to use or there is immediately requirement or any specific plan to put the land to use.
19. Counsel for the petitioner submits that in case, the land is required; it is open to the respondents to acquire the land afresh.
20. Having regard to the submissions made and the stand taken by the respondents in their counter affidavits that the compensation has not been tendered to any of the petitioners, we are of the considered view that the petitioners would be entitled to declaration that the acquisition proceedings are deemed to have lapsed in respect of the land subject matter of writ petitions, in terms of Section 24(2) of 2013 Act. It is declared accordingly.
21. The writ petitions stand allowed.

CM Nos.42625/2016, 42631/2016, 42637/2016, 42644/2016 & 42687/20916 (for stay)

All these applications stand disposed of, in view of order passed in the writ petition.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 16, 2018
afa/ssc