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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Judgment : 08th January, 2018

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W.P.(C) 5433/2017, CM APPL. No. 22866/2017

DAYA CHAND

..... Petitioner

Through: Mr. Sunil K. Goel and Mr. Lalit Kumar
Rawal, Advocates.

versus

GNCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Naushad Ahmed Khan, ASC for
respondents No. 1 and 2.
Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for L&B / LAC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

CM APPL. No. 745/2018 (Early hearing)

1. This is an application for an early hearing.
2. Notice. Learned counsels for the respondents accept notice. Prayer made in the application is not opposed. Accordingly, the same is allowed. Date already fixed i.e. 12.02.2018 stands cancelled.
3. Application stands disposed of.

W.P.(C) 5433/2017

1. Learned counsel for the respondent submits that counter affidavit has already been filed on 10.11.2017. Copy of the case history has been handed over in Court today as per which affidavit was filed by Mr. Yeeshu Jain vide diary No. 490581/2017. A duplicate copy

of the counter affidavit has been handed over in Court today.

2. Learned counsel for the petitioner submits that in this case a notification under Section 4 of the Land Acquisition Act, 1894 was issued on 23.09.1989 and declaration under Section 6 of the said Act was made on 20.06.1989 and thereafter on 19.06.1992, an Award No. 8/1992-93 was announced. In this background, learned counsel for the petitioner while relying upon ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors., reported at 2014 3 SCC 183***, submits that neither the possession of the subject land has been taken nor the compensation has been paid accordingly the case of the petitioner is fully covered by aforesaid decision and the petitioner is entitled to a declaration that the acquisition proceedings with respect to the land of the petitioner stands lapsed.
3. We have heard the learned counsel for the parties.
4. We deem it appropriate to reproduce the para 4 of the counter affidavit filed on behalf of the LAC, which reads as under:

“4. That it is submitted that for purposes of planned development of Delhi, the answering respondent issued a Notification u/s 4 of the Land Acquisition Act, 1894 on 23.06.1989 which was followed by Notification u/s. 6 of the said Act dated 20.06.1990 for planned developemtn of Delhi for the acquisition of the lands falling in village Ghonda Gujran Khadar. That an Award bearing No. 8/92-93 dated 19.06.1992 was also passed and the actual physical possession of the subject land falling in various khasra number 241/2 (2-10) and 56 (6-00) was taken on the spot by preparing possession proceedings dated 21.03.2007 and handed over to the DDA on the spot whereas

nobody turned up to claim compensation. The petitioner is claiming 1/8th share only.”

5. A reading of the stand taken by the LAC in para 4 of the counter affidavit makes it abundantly clear that the compensation with respect to the land comprised in Khasra No. 241/2 (02-10) 56 (06-00) i.e. total area (08-10) 1/8th share of the petitioner situated in revenue estate of village Ghonda Gujran Khadar, Shahdara, Delhi, was not tendered. Accordingly, we are of the considered view that 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.**

6. Applying the law laid down to the facts of the present case, 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 compensation has not been tendered, the petitioner is entitled to a declaration *qua* 1/8th share of the subject land that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with

regard to the subject land are deemed to have lapsed. It is ordered accordingly.

7. The writ petition stands disposed of.

CM APPL. No. 22866/2017

The application stands disposed of in view of the order passed in the writ petition.

G. S. SISTANI, J

SANGITA DHINGRA SEHGAL, J

JANUARY 08, 2018 / gr

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