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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 14th August, 2018*

+ W.P.(C) 11514/2016

JUGAL KISHORE Petitioner

Through: Mr.Arun Kr. Kaushik, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advs for LAC/L&B
Ms.Mrinalini Sen Gupta and
Ms.Niharika Jauhar, Advocates for
DDA.
Mr.Hemant Gupta and Ms.Sunakshi
Gupta, Advocates for R-5/DMRC
with Mr.Sanjay Kumar, Senior Law
Officer, DMRC.

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 Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to 1/4th share of the land of the petitioner, total measuring 04 Bighas 13 Biswas comprised in Khasra Nos. 445(02-1) and 447(02-12), situated in the revenue estate of Village Jasola, Tehsil Sarita Vihar, District South-East, Delhi (hereinafter referred 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 paid to the petitioner although the actual physical possession of the subject land has been taken.

2. Learned counsel for the petitioners further submits that in this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 23.06.1989 and a declaration under Section 6 was made on 22.06.1990. Thereafter, an award bearing no.21/1992-93 was passed on 18.06.1992.

3. It is the case of the petitioner that compensation has not been paid although the physical possession of the subject land has been taken. While relying on the counter affidavit filed by the LAC, learned counsel for the petitioner submits that the actual vacant physical possession of the subject land falling in Khasra number 445(2-11) and 447(2-12) has been taken on 19.1.2006 and the same was handed over to the DDA by preparing possession proceeding on the spot. However, the compensation has not been paid to the petitioner and thus, the petitioner would be entitled to a declaration that the acquisition proceedings are deemed to have lapsed in view of Section 24 (2) of the 2013 Act. Paragraph 5 of the counter affidavit filed by the LAC reads as under:-

“The present writ petition is liable to be dismissed as the actual vacant physical possession of the subject land falling in khasra number 445(2-11) and 447(2-12) was duly taken on 19.1.2006 and the same was handed over to the DDA on the spot by preparing possession proceeding on the spot wherein the petitioner has 1/4th share. The petitioner has not challenged the acquisition proceeding till date from the date of taking possession nor did he file any application and/or completed

documentary requirements seeking release of compensation”.

4. We have heard learned counsels for the parties.
5. Reading of the counter affidavit filed by the LAC shows that actual vacant physical possession of the subject land falling in khasra number 445(2-11) and 447(2-12) has been taken on 19.1.2006 and the same was handed over to the DDA on the spot by preparing possession proceeding on the spot wherein the petitioner has 1/4th share. However, compensation has not been paid and thus, the necessary ingredients of Section 24(2) of 2013 Act are accordingly fulfilled.
6. Having regard to the submissions made and the stand taken by the LAC in the counter affidavit, we are of the considered view that one of the necessary ingredients for the application of Section 24 (2) of 2013 Act stands satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act, the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have lapsed. It is ordered accordingly.
7. The writ petition stands disposed of in above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 14, 2018

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