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

% *Date of Decision: 21<sup>st</sup> May, 2018*

+ W.P.(C) 10681/2016

RADHA DEVI

..... Petitioner

Through: Mr Ankit Banati, Adv

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,  
Adv for LAC/L&B  
Mr Dhanesh Relan, Ms Komal Sorout  
and Ms Mrinalini Sharma, Adv 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 petitioner seeks a declaration that the acquisition proceedings with respect to the land of the petitioner falling in khasra No. 46/23 Min, ad-measuring 1 bigha 3 biswas situated in the revenue estate of Village Pehlad Pur Bangar, Delhi (hereinafter referred to as the 'subject land') is 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 neither physical possession has been taken nor the compensation has not been paid.

2. Mr Banati, learned counsel for the petitioner, submits that the decision of the Constitution Bench would have no impact to the facts of the present case in view of the categorical stand taken by the LAC in their counter affidavit that neither physical possession of the subject land has been taken nor compensation tendered. Counsel for the respondents are unable to dispute the submission so made by the counsel for the petitioner.

3. In the present case, a notification under Section 4 of the Land Acquisition Act was issued on 21.03.2003 and a declaration under Section 6 of the Act was made on 19.03.2004. Thereafter, an award bearing No. 06/2005-06 was rendered on 12.07.2005. Relying on Section 24(2) of the 2013 Act, learned counsel for the petitioner seeks the relief so prayed.

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

*“4. That it is submitted that the lands of village Prehlad Pur Bangar were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The Award was also passed vide Award no.6/05-06 dated 12.7.2005 however the possession of the land falling in Khasra No.46/23 min (1-03) could not be taken due to stay vide C.W.P no.12456-82/2004 and nor the compensation be paid.”*

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

5. Having regard to the fact that possession of the subject land has not been taken nor compensation tendered and since the award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act and thus, the petitioner is entitled to a declaration 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.

6. The writ petition is disposed of in the above terms.

**G.S.SISTANI, J**

**SANGITA DHINGRA SEHGAL, J**

**MAY 21, 2018**  
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