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

Date of Judgment: 11th September, 2018

+ W.P.(C) 10671/2016

BRAHM SINGH

..... Petitioner

Through: Mr. Vishal Maan, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Siddhart Panda, Adv for LAC/L&B.
Ms. Mrinalini Sen and Ms. Kritika
Gupta, Advts. for DDA

% **CORAM:**

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, 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 his 1/18th share in the land, comprised in Khasra No.55 admeasuring 5 Bighas 5 Biswas situated in the revenue estate of Village Said-ul-ajab, 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 neither the actual possession of the subject land has been taken nor the compensation has been paid to the petitioner.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 13.11.1959 and declaration under Section 6 was made in 10.11.1966. Thereafter, an Award bearing No.149/1986-87 was passed by the Land Acquisition Collector under Section 11 of the Act on 19.09.1986.
3. Mr. Vishal Maan, learned counsel for the petitioner submits that since the possession of the subject land has not been taken and compensation in respect thereof has not been paid to the petitioner thus, the petitioner would be entitled to a declaration that the acquisition proceedings with respect to land of the petitioner are deemed to have lapsed in view of Section 24 (2) of the 2013 Act.
4. Mr. Siddharth Panda, learned counsel for the LAC submits that the actual physical possession of the subject land was taken on 23.09.1986 but the payment of compensation in respect of the subject land could not be ascertained. Paragraph 7 of the counter affidavit filed by the LAC reads as under:-

“7. That in the present case, the possession of the above mentioned land was taken over and handed over to the beneficiary department on 23.09.1986. however, the payment of compensation with respect to the above mentioned land could not be ascertained as the statement “A” is not traceable. It is further submitted that the petitioner is only one of the co-sharer, other co-sharers have not approached this Hon’ble Court. The petitioner has not placed on record any document which could suggest that the petitioner has been authorized by other co-shares. The petitioner herein at best claimed for his own share and not other co-shares.”

5. Ms. Mrinalini Sen, learned Counsel for DDA submits that physical possession of the subject land was taken over on 23.09.1986 for the public purpose of planned development of Delhi. Paragraph (b) of the counter affidavit filed by the DDA reads as under:-

“ I say that the petitioner claims to have co-ownership and undivided interest to the extent of 1/18th share, over the entire and every parcel of land comprised in Khasra. No.55 total admeasuring 5Bigha, 5 biswas, situated in revenue estate of village said-ul-jab, new Delhi (hereinafter referred to as (“disputed land”). The aforesaid disputed land was notified under section 4 of the land acquisition act 1894 herein after referred to as “old act”) vide Notification No. F9 (16)/80/L&B dated 25.11.1980, under section 6 of the old act vide notification No. F9 (20)/85/L&B in 1985, which finally culminated into award bearing no. 149/1986-87 in 1987. The physical possession of the disputed land was taken over on 23.09.1986 for the public purpose of planned development of Delhi. The true translated copy of the possession proceedings are annexed here with as annexure R1. The compensation against the award was paid to the land and building department vide Cheque No. 0081462 dated 27.1.1986 for an amount of Rs. 2,00,00,000/- only”

6. We have heard learned counsels for the parties.
7. Reading of the counter affidavit filed by the LAC clearly shows that although the actual physical possession of the subject land has been taken on 23.09.1986 however whether the amount of compensation has been tendered to the petitioner can not be ascertained nor statement is traceable. The petitioner has made a categorical statement on oath that he has not received the compensation.

8. Having regard to the submissions made and the stand taken by the LAC in the counter affidavit that possession has been taken but compensation has not been paid, we are of the considered view that the necessary ingredients for the application of Section 24 (2) of 2013 Act stand satisfied and since the award having been announced more than five years prior to the commencement of the 2013 Act the petitioner is 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.
9. The writ petition stands disposed of in above terms.

SANGITA DHINGRA SEHGAL, J

G.S.SISTANI, J

SEPTEMBER 11, 2018
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