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

Date of Judgment: 20th July, 2018

+ **W.P.(C) 10820/2016**

KRISHAN LAL ARORA & ANR.Petitioners

Through: Mr. Apurv, Adv.

Versus

LAND ACQUISITION COLLECTOR (SOUTH-EAST) & ORS.

.....Respondents

Through: Mr. Siddharth Panda and Mr. Ankit
Agarwal, Advs. for L&B/LAC.
Mr. Arjun Pant, Adv. for DDA.

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 petitioners seeking a declaration that the acquisition proceedings with respect to land admeasuring 4 Bighas and 17 ½ Biswas comprised in Khasra No.747 for 2 Bighas 12 Biswas: Khasra No.2639/742 for 13 Biswas; Khata No.57/397 Khasra No.4026/740, Khata No.55/364 Khasra No.4025/740, Khata No.61/418, Khasra No.4024/740 for 18 ½ Biswas; and Khasra No. 2639/742 for 14 Biswas situated in the revenue estate of Village Tughlakabad, 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 admittedly neither compensation has been paid to the petitioners nor possession has been taken.

2. Mr. Apurv, counsel for the petitioners submits that in this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 23.01.1965 and a declaration under Section 6 was made on 13.01.1969. Thereafter, an award bearing no.50-A/Supp./1969-70 was passed on 04.11.1981. He further submits that neither the possession of the subject land has been taken nor compensation has been paid to the petitioners and thus, the petitioners 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.
3. Mr. Siddharth Panda, counsel for the LAC submits that the actual vacant physical possession of the subject land has been taken over on 02.09.2006, however, as per Naksha Mutazameen, the payment of the compensation has not been paid to the recorded owners.
4. Mr Arjun Pant, learned counsel for the DDA, submits that possession of the subject land has been taken over on 02.09.2006 and the payment of compensation was to be released through Commissioner (L&H) to the recorded owners through the LAC at the time of announcement of Awards.

5. We have heard learned counsels for the parties and perused the material available on record.
6. As per the counter affidavit filed by LAC, possession of the subject land has been taken however compensation has not been paid.

Relevant portion of counter of LAC reads as under:

" 7. Further, possession of the above said land was taken over on 02.09.2006 and handed over by the beneficiary department. However, as per Naksha Mutazameen, the payment of the compensation with respect to the above land was not been paid to the recorded owners. Further Statement "A" is not available in the LA branch. "

7. Relevant portion of counter affidavit filed by DDA reads as under:

"Physical possession of the land bearing Khasra Nos. 747 (7-12), 2639/742 min. (6-5), 4024/740 (0-15), 4025/740 (0-06) and 4026/740 (0-16) was handed over to DDA by the Land Acquisition Collector/L&B Department, Govt. of NCT of Delhi on 02.09.2006. The land bearing Khasra No.2639/742 min. (0-02) could not be handed over to the DDA as a temple was built on it. Copy of possession proceedings are annexed as ANNESURE R.3/1.

(L) It is further submitted that prior to 1980, the payment of compensation was used to release through Commissioner (L&H) to the concerned LAC at the time of announcement of Awards.."

8. Reading of the counter affidavits filed by LAC and DDA makes it abundantly clear that the compensation has not been paid to the petitioners. Resultantly, 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 and having regard to the fact that the compensation has not been tendered to the petitioners, 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.

9. The writ petition stands disposed of in above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 20, 2018 //SU