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

*Date of Judgement: 26<sup>th</sup> February, 2018*

+ **W.P.(C) 11391/2016**

**DIWAN SINGH YADAV**

.....Petitioner

Through: Mr. M.P. Bhargava Advocate.

Versus

**GOVT. OF NCT OF DELHI AND ORS.**

....Respondents

Through: Mr. Siddharth Panday Advocate for  
LAC/L&B/R-2, Mr. Pawan Mathur  
Advocate for DDA/R-3.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

**SANGITA DHINGRA SEHGAL, J (ORAL)**

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings in respect of the land of the petitioner admeasuring 1/6<sup>th</sup> share out of 37 Bighas 16 Biswas comprised in Khasra No. 341(4-05), 343(03-08), 344(09-04), 345(03-01), 346(14-11), 347(01-02) and 348(02-05) (i.e. 03 Bighas 15 Biswas and 6 Marla), situated in the revenue estate of village Ladha Sarai, Tehsil Mehrauli, New Delhi (hereinafter referred as the 'subject land') stand lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

(hereinafter referred to as '2013 Act') as neither the possession of the aforesaid land has been taken nor compensation has been paid to the petitioner.

3. The necessary facts to be noticed for disposal of this writ petition are that a Section 4 notification of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 23.01.1965. Section 6 declaration was made on 06.01.1969. Thereafter an Award bearing no. 64/1983-84 was passed by the Land Acquisition Collector on 20.10.1983. Learned counsel for the petitioner contends that neither the possession of the aforesaid land has been taken nor compensation has been paid. Moreover, enhanced compensation, as per the order dated 12.05.2008 passed by this court in LAC No.159/2007, was also not paid to the petitioner. Hence, the petitioner would be entitled to a declaration under Section 24 (2) of the Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the New Act').
4. On the other hand, Mr. Yeeshu Jain, learned counsel appearing for LAC submits that the possession of the subject land has been taken over and the compensation has been deposited with the Court of concerned ADJ. Relevant Para(s) of the counter affidavit filed by LAC reads as under:

*"7 That in the present case, the possession of the above mentioned lands were taken over and handed over to the beneficiary department on 26/10/1983. As per the Statement-A the status of compensation is as under:-*

| S.No. | Name         | Amount   | Remarks                                                                         |
|-------|--------------|----------|---------------------------------------------------------------------------------|
| 1.    | Balam Singh  | 37324.85 | Sent to ADJ<br>vide Ch.No.<br>OA121210<br>dated 09.11.83<br>for<br>Rs.261273.91 |
| 2.    | Deevan Singh | 37324.84 |                                                                                 |
| 3.    | Chand Kaur   | 37324.85 |                                                                                 |
| 4.    | Sarbati      | 37324.84 |                                                                                 |
| 5.    | Mohar Kaur   | 37324.85 |                                                                                 |
| 6.    | Asharfi      | 37324.84 |                                                                                 |
| 7.    | Girdari      | 37324.84 |                                                                                 |

*9. That it is humbly submitted that in the present case provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would not be applicable as the possession of land in question has already been taken over by the Government and handed over to the beneficiary department and the compensation has been deposited with the court of concerned ADJ, thus the land is free from all encumbrances whatsoever.”*

5. We have heard learned counsel for the parties.
6. Reading of the counter-affidavit filed by the LAC as well as the perusal of the record, shows that the possession of the subject land admeasuring 1/7<sup>th</sup> share out of 37 Bighas 16 Biswas comprised in Khasra No. 341(4-05), 343(03-08), 344(09-04), 345(03-01), 346(14-11), 347(01-02) and 348(02-05)(i.e. 03 Bighas 15 Biswas and 6 Marla), situated in the revenue estate of village Ladha Sarai, Tehsil Mehrauli, New Delhi was duly taken over and handed over to the beneficiary department on 26.10.1983 and the compensation with respect to the above mentioned land, has been deposited with

the Court of ADJ vide Cheque No. OA121210 on 09.11.1983. Resultantly, the relief so claimed based on Section 24(2) of the 2013 Act cannot be granted.

7. Hence we are of the view that the present petition lacks merit and is liable to be dismissed.
8. The writ petition stands disposed of in the above terms.

**SANGITA DHINGRA SEHGAL, J.**

**G.S.SISTANI, J.**

**FEBRUARY 26, 2018**

