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

Date of Judgement: 14th March, 2018

+ **W.P.(C) 5877/2017**

GOPAL SINGH

.....Petitioner

Through: Mr. Arun Kumar Kaushik, Advocate.

Versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Siddharth Panda, Adv. for
LAC/L&B Deptt.

Mr. Arun Birbal, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J. (Oral)

1. Pleadings are complete. Accordingly, 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 with respect to land bearing Khasra No. 441 (02-15), measuring 2 Bighas 15 Biswas (*out of which petitioner claims 480 sq.yds.*) situated in the revenue estate of village Jasola, Tehsil Sarita Vihar, Delhi (hereinafter referred as the 'subject land') stand 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 of the subject land has been taken nor compensation in respect thereof 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 23.06.1989. Section 6 declaration was made on 22.06.1990. Thereafter an Award bearing no. 21/92-93 was passed by the Land Acquisition Collector on 18.06.1992.
4. Mr. Arun Kumar Kaushik, learned counsel for the petitioner submits that since the physical possession of the subject land has not been taken and the compensation in respect thereof has not been paid, the petitioner would be entitled to a declaration under Section 24 (2) of the 2013 Act. Counsel also submits that his submissions are further fortified by the stand taken by LAC in their counter affidavit.
5. Mr. Siddharth Panda, learned counsel for the LAC submits that the physical possession of the subject land has not been taken and there is no entry in the Naksha Mutzamin which reflects that the compensation has been paid to the petitioner. Relevant portion of the counter affidavit filed by LAC reads as under:

"That in the present case, possession of the above said land was not taken. The payment of compensation could not be ascertained as the Statement 'A' is not available in the branch , however, as per Naksha Mutzamin compensation is not paid to the recorded owners."

6. We have heard learned counsel for the parties.
7. Taking into consideration the submissions made and the categorical assertion made in the counter affidavit filed by LAC that the actual physical possession of the subject land has not been taken and the compensation has not been paid to the petitioner and since the award has been announced more than five years prior to the commencement of the 2013 Act, the petitioner is entitled to a declaration under Section 24(2) of the 2013 Act that the acquisition proceedings initiated under the Act with regard to the subject land are deemed to have lapsed. It is ordered accordingly.
8. The writ petition stands disposed of in the above terms.

SANGITA DHINGRA SEHGAL, J.

G.S.SISTANI, J.

MARCH 14, 2018

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