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

Date of Judgment: 16th March, 2018

+ **W.P.(C) 6798/2017**

RAM KISHAN

.....Petitioner

Through: Mr.Rajiv Kumar Ghawana with Ms.Akshita
Chhatwal, Advocates.

Versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr.Yeeshu Jain, Standing Counsel with
Ms.Jyoti Tyagi, Advocate for L&B/LAC.
Ms.Aakanksha Kaul, Advocate 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 petitioner seeking a declaration that the acquisition proceedings with respect to land/plot no.23 in Khasra no.216 min and 964/218 min admeasuring 400 sq. yards situated in the revenue estate of village Haiderpur, Delhi (hereinafter referred 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 of the subject land has been taken nor the compensation in respect thereof 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 24.10.1961 and a declaration under Section 6 was made on 06.12.1966. Thereafter, an award bearing no.50/80-81 was passed on 19.08.1981.
3. Learned counsel for the petitioner submits that as neither the physical possession of the subject land has been taken nor the compensation in respect thereof has been paid, the petitioner would thus be entitled to a declaration under Section 24 (2) of 2013 Act.
4. Counter affidavits have been filed by the LAC and DDA. As per the counter affidavit filed by the LAC, compensation could not be tendered to the petitioner. Para 5 of the counter affidavit filed by the LAC, reads as under:

“That the present writ petition is liable to be dismissed on the ground of limitation as the actual vacant physical part possession of the subject land falling in Khasra number 216(0-19 to the said extent) and 216(0-09 to the extent) was taken on the spot on 19.7.1980 and 12.11.1999 and handed over to the DDA on the spot by preparing possession proceeding on the spot. The compensation however could not be paid.”

5. Counter affidavit has also been filed by the DDA. As per the counter affidavit filed by the DDA, physical possession of Khasra No.964/218 has not been handed over to the DDA by the LAC. It is further

submitted that Khasra No.216 and 218 are divided by a drain and thus, it could not be possible that the plot of 400 sq. yards would fall into separate Khasra numbers. Para 3 of the counter affidavit filed by the DDA, reads as under:

“I say that as per the land record, the land bearing Khasra no.216(4-19) and Khasra No.964/218(1-07) situated in Village Haiderpur, Delhi was notified on 24.10.61 under Section 4 of Land Acquisition Act, 1894 and further declaration was made vide notification dated 06.12.1966 under section 6 of Land Acquisition Act, 1894 and the said land was duly acquired vide award no.50/80-81 dated 19.08.81. The physical possession of the acquired land falling in Khasra no.216 min(0-19), 216min(0-9) measuring 1-08 situated in Village Haiderpur has been handed over to the respondent No.3-Delhi Development Authority by the LAC/Land & Building Department, Govt. of National Capital Territory of Delhi on 19.07.1980 and 12.11.1999 respectively and further transferred to the Horticulture Department on 27.06.2005 for maintaining as Green. However the possession of Khasra No.964/218 has not been handed over to the DDA by the LAC. It is further submitted that Khasra No.216 & 218 are divided by a drain therefore it is not possible that the plot of 400 sq. yds, claimed by the Petitioner fall in both the Khasra No.216 and 218 is annexed as Annexure-I.”

6. We have heard learned counsel for the parties.
7. Taking into consideration the stand taken by the LAC that 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 2013 Act 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.

8. The writ petition stands disposed of.

CM No.28331/2017 (stay)

The application stands disposed of, in view of order passed in the writ petition.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MARCH 16th, 2018
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