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

% *Date of Judgment: 16th August, 2018*

+ W.P.(C) 6465/2017

POONAM YADAV

..... Petitioner

Through: Ms. Vibha Mahajan Seth, Advocate

versus

GOVT OF NCT OF DELHI & ORS

.... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
L&B/LAC.

Ms. Shahana Farah, Mr. Chitral Raj
Gambhir and Mr. Rahul Dubey,
Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India. The petitioner seeks a declaration that the acquisition proceedings initiated in respect of the land of petitioner, *i.e.*, bearing no.25-B, measuring 50 sq.yds(15' x 30'), out of the land measuring 2480 bigha 01 biswa comprised in Khasra no.14/12, situated in the revenue estate of village Mubarakpur Dabas, known as Kishan Vihar, Roop Vihar, Delhi-110086 (hereinafter referred to 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 the '2013 Act'), as neither the physical possession of the subject land has been taken nor the compensation has been paid.

2. The necessary facts required to be noticed for the disposal of the present petition are that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 21.03.2003, a Section 6 declaration was made on 19.03.2004. Thereafter, an Award bearing no.16/2005-06/DC(N-W) was rendered on 08.09.2005.
3. It is the contention of the learned counsel for the petitioner that neither the physical possession of the subject land of the petitioner has been taken nor the compensation has been tendered. Reliance is placed on paragraph 4 of the counter affidavit filed by the LAC.
4. Counsel for the LAC relies on para 4 of the counter affidavit wherein it has been stated that the acquisition proceedings were never challenged by the recorded owners, however, neither possession of the subject land could be taken nor compensation paid. Counsel for the DDA has drawn the attention of this Court on para 3(L) of the counter affidavit, wherein it has been admitted that physical possession of the land has not been handed over to the DDA.
5. We have heard the learned counsels for the parties and considered their rival submissions.
6. Para 4 of the counter affidavit filed by the LAC, reads as under:

“4. That it is submitted that the lands of village Mubarakpur Dabas were notified vide Notification under section 4 of the Land Acquisition Act, 1894 dated 21.3.2003 which was followed by the Notification under section 6 of the Act dated 19.3.2004. The Award was also passed vide Award No.16/2005-06 dated 14.9.2005 and which acquisition proceedings were apparently never challenged by the recorded owners. The possession of subject land falling in khasra number 14//12(4-16) could not be taken nor the compensation

be paid to the recorded owner namely Ram Narayan S/o Mojji.”

7. Para 3(L) of the counter affidavit filed by the DDA, reads as under:

“3(L). I say that the physical possession of the acquired land falling in Khasra no.14//12(4-16), claimed to be 14//12m(0-01) measuring 50 square yards by the petitioner situated in Village Mubarakpur Dabas has not been handed over to the respondent no.3-Delhi Development Authority by the LAC/Land & Building Department, Govt. of National Capital Territory of Delhi.”

8. Having regard to the averments made in the counter affidavits that possession of the subject land has not been taken nor compensation tendered and, since the award having been announced more than five years prior to the commencement of the 2013 Act, the case of the petitioner is covered by the provisions of Section 24(2) of the 2013 Act and thus, the petitioner is entitled to a declaration 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.
9. The writ petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

AUGUST 16, 2018/pst