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

% *Date of Judgment: 08th January, 2018*

+ W.P.(C) 7006/2017

KRISHAN SHARMA

..... Petitioner

Through: Ms.Deepika V. Marwaha, Mr.Vinay
Kumar Shailendra, Mr.Worthing Kasar
and Mr.Vaibhav Prakash, Advocates.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr.Pawan Mathur, Standing Counsel
for respondent/DDA.
Mr.Sanjay Kumar Pathak,
Mrs.K.Kaomudi Kiran Pathak and
Mr.Sunil Kumar Jha, Advocates for
respondent-L&B/LAC/GNCTD.

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 the Constitution of India filed by the petitioner.
2. Counsel for LAC has handed over in court the counter affidavit. Copy supplied to Ms.Marwaha, counsel for the petitioner.
3. Counsels for the parties submit that writ petition may be taken up today for final hearing and disposal.
4. The petitioner claims to be the owner of land measuring 1 bigha comprised in Khasra no.1454 min situated in revenue estate of village

Malikpur Kohi @ Rangpuri, New Delhi. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 27.06.1996. A declaration under Section 6 was made on 03.03.1997 and thereafter an Award bearing no.3/1998-99/S.W was made on 26.02.1999. It is the case of the petitioner that neither the physical possession of the subject land has been taken nor compensation has been paid to the petitioner.

5. Counter affidavit which has been handed over in court and taken on record has been examined. As per paras 8 & 9 of the counter affidavit, neither the compensation has been paid nor physical possession has been taken. Paras 8 & 9 read as under:

“8. That the vast tract of land including the subject land comprised in Khasra no.1454 situated in revenue estate of village Malikpur Kohi @ Rangpuri, New Delhi was notified vide notification dated 27.06.1996 issued under Section 4 of the Old Act which was followed by declaration issued under Section 6 of the Old Act on 03.03.1997 and Award No.03/98-99 was also made on 26.02.1999 with respect to the acquired land including the subject land.

9. That as regards possession, it is humbly submitted the possession of the land comprised in Khasra no.1454 could not be taken. So far as compensation is concerned the compensation amount has not been received from requisitioning authority. Thus, the compensation amount could not be paid to the interested persons”.

6. We have heard the counsels for parties.
7. Taking into consideration the submissions made, we are of the view that the case of the petitioner stands fully covered by the decision rendered by the Supreme Court of India in the case of ***Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & ors.***, reported at (2014) 3 SCC 183 and the following other decisions rendered by this court:-

- (i) **Union of India and Ors v. Shiv Raj and Ors.**, reported at (2014) 6 SCC 564;
- (ii) **Sree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors**, Civil Appeal no.8700/2013 decided on 10.09.2014;
- (iii) **Surender Singh v. Union of India & Others**, W.P.(C).2294/2014 decided on 12.09.2014 by this Court; and
- (iv) **Girish Chhabra v. Lt. Governor of Delhi and Ors**; W.P.(C).2759/2014 decided on 12.09.2014 by this Court.

8. The award having been made more than five years after passing of the Act, the petitioner is entitled to the declaration that the acquisition proceedings qua the land of the petitioner stands lapsed, as neither physical possession has been taken nor compensation has been tendered. It is declared accordingly.

9. The writ petition is allowed.

CM No.29093/2017 (stay)

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

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JANUARY 08, 2018

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