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

% *Date of Decision: 2nd May, 2018*

+ **W.P.(C) 776/2017**

RAJESH SAXENA AND ORS

..... Petitioners

Through: Mr S.K. Rout and Mr Aman Mehrotra,
Advs

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr Yeeshu Jain, SC with Ms Jyoti
Tyagi, Adv for L&B/LAC

Mr Pawan Mathur, SC for DDA

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The present petition has been filed under Article 226 of the Constitution of India whereby the petitioners seek a declaration that the acquisition proceedings with respect to the land of the petitioners falling in khasra No. 631/190 min measuring 4 bigha out of the total area of 8 bigha situated in the Revenue Estate of Village Jasola, Delhi (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 '2013 Act') as the compensation has not been tendered.

2. Mr Rout submits that the decision of the Constitution Bench would have no impact to the facts of the present case as the stand of the LAC is that compensation has not been tendered and the petitioners are not claiming possession.

3. In the present case, a notification under Section 4 of the Land Acquisition Act was issued on 06.04.1964 and Section 6 declaration was made on 07.12.1966. Thereafter, an award bearing No. 6-D/Supp./86-87 was rendered on 19.09.1986. The counter affidavit has been filed by the LAC. As per which possession of the subject land was duly taken on the spot on 19.01.1994 and handed over to the requisitioning agency at the spot. It has further been averred that Statement-A does not carry any entry to the effect that compensation was paid to the recorded owners namely Pratap Singh and Chokha Singh having 1/2 share each.

4. We have heard the learned counsel for the parties.

5. Para 4 of the counter affidavit filed by the LAC reads as under:-

“That it is submitted that the lands of village Jasola were notified vide Notification under Section 4 of the Land Acquisition Act dated 06.04.1964 which was followed by Notification under section 6 of the said Act vide Notification dated 07.12.1996. That the then Land Acquisition Collector passed an Award No. 6-D/Supp./86-87 and the possession of the subject land falling in khasra number 631/190(8-00) including other parts/min of the same khasra number were duly taken on the spot on 19.01.1994 and handed over to the requisitioning agency on the spot by preparing possession proceeding on the spot. The Statement – A however did not carry any entry to the effect that the compensation was paid to the recorded owner namely Pratap Singh and Chokha Singh having ½ share each and the petitioners have been claiming through the Chokha Singh having half share i.e 4 bigha.”

6. Mr Rout has also drawn attention of this Court to the reply received from the office of the Sub-Divisional Magistrate, Head Quarter in response to a query raised under the RTI Act, 2005. As per the reply received, no payment has been made to Chokha Singh or his successors. The copy of the reply received has been filed at page 66 of the paper book. The relevant portion reads as under:-

“As per statement ‘A’ of the Award no payment has been made to Sh. Chokha Singh or his successors.”

7. Having regard to the categorical stand taken in the counter affidavit of the LAC that no payment has been made as well as the reply received under the Right to Information Act, also the award having been announced more than five years prior to the commencement of the 2013 Act, in our view, the petitioners are entitled to declaration that the acquisition proceedings in respect of the subject land are deemed to have lapsed. It is ordered accordingly. However, as submitted by the learned counsel for the petitioners, the petitioners would only be entitled to the compensation as per 2013 Act. The compensation shall be paid within a period of one year.

8. The writ petition is disposed of in the above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

MAY 02, 2018 / SU