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

Date of Judgement: 20th July, 2018

+ **W.P.(C) 03/2017 & C.M. No. 40/2017**

ASHU AND ANR

.....Petitioners

Through: Mr. Akhil Sachar with Ms. Sunanda
Tulya, Advocates.

Versus

LT GOVERNOR NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Yeeshu Jain with Ms. Jyoti Tyagi,
Advocates for L&B/LAC.
Mr. Dhanesh Relan Standing Counsel for
DDA with Ms. Komal, Ms. Gauri & Ms.
Kajri, Advocates.

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 petitioners seeking a declaration that the acquisition proceedings with respect to land bearing Khasra No.58/16(0-14), total measuring 14 Biswas, situated in the revenue estate of village Prehlad Pur Bangar, New 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 the actual physical possession of the

subject land has been taken nor the compensation in respect thereof has been paid to the petitioners.

2. In this case, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') was issued on 21.03.2003 and a declaration under Section 6 was made on 19.03.2004. Thereafter, an award bearing no.06/2005-06/DC(N-W) was passed on 12.7.2005.
3. Mr. Akhil Sachar, learned counsel for the petitioners submits that since the actual physical possession of the subject land has not been taken and compensation in respect thereof has not been paid, thus the petitioners would be entitled to a declaration under Section 24 (2) of the 2013 Act.
4. Mr. Yeeshu Jain, learned counsel for the LAC submits that out of the total land measuring 4 Bighas 16 Biswas possession of 1 Bigha 16 Biswas of the subject land has been taken, however the amount of compensation has not been paid to the petitioners. Para.5 of the counter affidavit filed by LAC reads as under :-

"That the present writ petition is barred by the principles of limitation as the actual physical possession of the subject land falling khasra number 58/16 (1-16) out of total land measuring (4-16) in revenue village Prehlad Pur Bangar was duly taken on 26.8.2005 and handed over to the requisition agency i.e. DDA on the spot by preparing possession proceedings on the spot as the purpose of the acquisition was implementation of the Rohini Residential Scheme. The petitioner have been claiming the relief of only 14 biswa, however the petitioners never turned up to claim compensation."

5. Mr. Dhanesh Relan, learned Counsel for DDA submits that 1 Bigha 16 Biswas land out of 4 Bigha and 16 Biswas has been handed over by LAC/L&B Department on 31.08.2005 and which was further handed over to AE/RPD-IV for Rohini Residential Scheme. Para 7 of the Counter Affidavit filed by DDA is as under:-

"The physical possession of the aforesaid land admeasuring 1 Bigha 16 Biswas out of land bearing Khasra No. 58//16 (4-16) of Village Prahladpur Bangar acquired vide Award No. 6/2005-06 has been duly handed over by the LAC/L&B Department to the DDA on 31.08.2005, which has further been handed over to AE/RPD-IV on the same very day on 31.08.2005 for Rohini Residential Scheme. Possession of remaining land admeasuring 3.00 was not handed over by the LAC/L&B Deptt. to the DDA due to built up structure."

6. Mr. Jain, learned counsel for the LAC has opposed the petition on the ground that the petitioners are claiming relief based on General Power of Attorney, Will, receipt etc. which cannot confer title of the petitioners.
7. On the other hand, Mr. Akhil Sachar learned counsel for the petitioners submits that as far as objection with regard to the ownership and title is concerned, the case would be covered by the decision rendered by the Supreme Court in ***Govt. of NCT of Delhi vs. Manav Dharma Trust*** and another, reported in ***2017 (6) SCC 751***.
8. We have heard learned counsels for the parties.
9. Having regard to the observation made by the Apex Court in the case of ***Manav Dharma Trust*** (Supra), in our view the objection

raised by Mr. Jain, learned Standing Counsel for LAC/L&B is misplaced. In the case of ***Manav Dharma Trust*** (supra), the Apex Court has held as under :

"28. Thus, the subsequent purchaser, the assignee, the successor in interest, the power-of-attorney holder, etc., are all persons who are interested in compensation/landowners/ affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondent-writ petitioners do not have any locus standi."

10. Reading of the counter affidavit filed by LAC makes it abundantly clear that possession of only 14 Biswas of land out of 4 Bighas 16 Biswas in Khasra No. 58//16 at Village Prehladpur Bangar has been taken but the compensation in respect of the entire land has not been tendered.
11. Taking into consideration the submissions made and the stand taken by LAC that only part possession of the subject land has been taken and the compensation has not been tendered to the petitioners, we are of the considered view that the necessary ingredients of Section 24 (2) of 2013 Act stand satisfied. Since the award having been announced more than five years prior to the commencement of the 2013 Act and, having regard to the fact that the compensation has not been tendered, the petitioners are entitled to a declaration that the acquisition proceedings initiated under

the Act with regard to the subject land is deemed to have been lapsed. It is ordered accordingly.

12. However we make it clear that this order would not confer any title on the petitioners. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
13. The writ petition stands disposed of in above terms.

C.M. No. 40/17 (Stay)

1. In view of the order passed in the writ petition the present application is rendered infructuous.
2. Application stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JULY 20, 2018

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