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

% *Date of Judgment: 15th February, 2018*

+ **W.P.(C) 7917/2015**

HUKUM SINGH & ORS.

..... Petitioners

Through: Mr. Harpreet Singh, Mr. Rajesh Gupta, Mr. Pranjal Saran and Mr. M.C. Verma, Advocates

versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Roshan Lal Goel and Ms. Cherub Goel, Advocates for UOI.
Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Advocate for L&B/ LAC.
Mr. Pawan Mathur, Standing Counsel 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 the Constitution of India filed by the petitioners. The petitioner seeks a declaration that the acquisition proceedings initiated with respect to 11 bigha 14 biswas of the land of petitioners comprised in Khasra nos.33//13/2(1-14), 14(4-16), 17(5-04), situated in the revenue estate of village Mubarak Pur Dabas, 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 the '2013

Act'), as neither the possession of the subject land has been taken nor the compensation has been paid to the petitioners.

2. Counsel for the petitioners submits 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 and thereafter an Award bearing no.16/2005-06 was rendered on 14.09.2005. Counsel for the petitioners submits that Section 24(2) of the 2013 Act is crystal clear and in case either possession has not been taken or compensation has not been tendered, the acquisition proceedings would deem to have lapsed.
3. Counsel for the LAC relies on paras 4 and 5 of the counter affidavit filed in support of his submission that the possession of the subject land was taken on 04.04.2006, however, the compensation could not be paid with respect to the said land as the petitioners never turned up to receive the compensation.
4. Counsel for the DDA relies on paragraph (e) of the counter affidavit filed in support of his submission that possession of the subject land has been taken on 14.11.2006 and further transferred to the Engineering Wing of the DDA on 14.11.2006 for DDA Scheme.
5. We have heard the learned counsel for the parties.
6. Paragraphs 4 and 5 of the counter affidavit filed by the LAC read as under:

“4. That the present writ petition is liable to be dismissed as the actual vacant physical possession of the subject land falling in khasra numbers 33//13/2(1-14), 33//14(4-16) and 33//17(5-04) total measuring (11-14) was taken on the spot on 4.4.2006 and handed over to the DDA on the spot by preparing possession proceeding on the spot, however the compensation

could not be paid for the said land as the petitioners never turned up to receive the compensation for the land.

5. 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 petitioner.”

7. Paragraph (e) of the counter affidavit filed by the DDA, reads as under:

“e)...It is stated that the physical possession of the acquired land falling in Khasra No.33//13/1-2(4-12), 14 Min (3-00) and 17 Min (4-18) of Village Mubarakpur Dabas, Delhi handed over to the DDA by the Land Acquisition Collector, through the Land & Building Department, Government of NCT of Delhi on 14.11.2006 and further transferred to Engineering Wing, DDA on 14.11.2006 for DDA Scheme...”

8. Although, the consistent stand of the respondent is that the possession of the subject land has been taken, which is disputed by the counsel for the petitioners, but it is clear that the compensation was not tendered to the petitioners. In fact, it is admitted that no notice under Section 12(2) of the 2013 Act was issued to the petitioners. In an additional note provided by the DDA, it is stated that the land in question is to be used for the proposed smart city. There is nothing before us that the subject land has been put to use by the DDA or is likely to be used in the immediate future.
9. Having regard to the submissions made and the stand taken by the respondent, it is clear that the compensation has not been tendered to

the petitioners, thus the petitioners are entitled to a declaration that the acquisition proceedings initiated under the Land Acquisition Act, 1894 with respect to the land of the petitioners as described above are deemed to have lapsed. It is ordered accordingly.

10. No other grounds have been raised by either of the parties.
11. The petition stands disposed of.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 15, 2018

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