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

% *Date of Judgment: 6th August, 2018*

+ W.P.(C) 8080/2015

RAKESH KUMAR

..... Petitioner

Through: Mr. Akhil Sachar, Adv

versus

LT. GOVERNOR OF DELHI & ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B with Ms. Jyoti Tyagi, Advocate.
Mr. Dhanesh Relan and Ms. Akshita
Manocha, Advocates for DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.
2. The petitioner seeks quashing of notification No. 10(29)/96/L&B/LA 11394 dated 27.10.1999 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). The subject matter of this writ petition is land comprised in Khasra No.53/11 (10 Biswas) and Khasra No. 53/12 (11 Biswas), total land measuring 1055 Sq. yards situated at Village Prehaldpur Bangar,

Delhi 110042.

3. Some necessary facts which are required to be noticed for disposal of this writ petition are that a Section 4 notification of the Act was issued on 27.10.1999 followed by a notification under Section 6 of the Act issued on 03.04.2000. Aggrieved by the aforesaid notifications, similarly situated land owners had filed a writ petition in Delhi High Court being W. P. (C) 2532/2000 titled as ***“Darshan Singh & Ors. Vs. Lt. Governor & Ors.”***.
4. It is also pointed out that vide order dated 09.07.2007 passed by the Delhi High Court, the case of the land owners was dismissed. Aggrieved by the order dated 09.07.2007 passed by the Delhi High Court various similarly situated land owners approached the Hon’ble Supreme Court vide CA Nos. 3017-3018/2012 and various other connected matters. The Hon’ble Supreme Court issued notice and granted interim stay of the order passed by the High Court of Delhi on 17.09.2007. By an order dated 21.03.2012, the Supreme Court was pleased to quash the declaration under Section 17 of the Act and the declaration dated 03.04.2000 issued under Section 6 of the Act.
5. It is not in dispute that pursuant to the order passed by the Hon’ble Supreme Court, the LAC issued a general public notice thereby

inviting objections under Section 5A of the Act. The petitioner approached the LAC and filed objections in his individual capacity and also through the Residents Welfare Association.

6. A fresh declaration under Section 6 of the Act was made on 20.03.2013 after a lapse of the statutory period of one year. Learned counsel for the petitioner submits that neither the possession of the land in question was taken nor the compensation has been paid. He further submits that since the fresh Section 6 notification was made after a lapse of more than one year, the case of the petitioner would be covered by the decision rendered by the Coordinate Bench of this Court in W. P. (C) 3049/2013 titled as *Sunil Goel & Others Vs. The State and Others* decided on 29.04.2014 when batch of cases were decided. Reliance is placed on para 18 of the judgment, which is reproduced as under :

18. Having considered the submissions made by the learned counsel on both sides, we are of the view that the submissions made by the learned counsel for the petitioners ought to be accepted. This is so because the decision of the Supreme Court in the case of *Padmasundara Rao (supra)* covers the present case on all fours. The very issue before the Supreme Court, as pointed out by us earlier, was - whether, after the quashing of a declaration under Section 6 of the said Act, a fresh period of one year would be available to the State Government to issue another declaration

under Section 6. This question has been answered by the Constitution Bench of the Supreme Court in ***Padmasundara Rao (supra)*** in the negative. In other words, when a Section 6 declaration is quashed, it does not give a fresh period of one year to the Government to issue another Section 6 declaration. The Section 6 declaration, after such quashing, if at all, can be issued only during the balance period.

7. It is further pointed out that the case of ***Sunil Goel (Supra)*** has attained finality as SLP preferred by the respondents stands dismissed in *limine*.
8. Learned counsel for the petitioner has also relied upon the relevant dates to draw the attention of the Court that the period of one year has lapsed and fresh notification under Section 6 of the Act is delayed by 8 months and 24 days.
9. Mr. Jain, learned Standing Counsel for LAC has also drawn the attention of this Court to para 5 of the counter affidavit which has been placed on record. Para 5 of the counter affidavit is reproduced below:

“5. That it is submitted that the lands of village Prehlad Pur Bangar were notified vide Notification under Section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 which was followed by the Notification under Section 6 of the Act dated 03.04.2000. The acquisition affected parties challenged the acquisition proceeding before Hon’ble Courts including the Supreme Court of India which quashed the Section 6 Declaration in SLP No. 3513/2007. Having invited objections and having

considered the same in accordance with law, the than LAC issued fresh Declaration u/s 6 on 20.03.2013 and Award No. 07/14-15 came to be passed. The purpose of acquisition was for Rohini Residential Scheme and possession of Khasra number 53/11 and 53/12 was duly taken on 09.05.2000 and handed over to the DDA by preparing possession proceeding. Compensation appears to have not been paid.”

10. Mr. Jain further submits that the fresh notification under Section 6 of the Act was issued within a period of one year of the judgment rendered by the Apex Court on 21.03.2012.
11. We have heard learned counsel for the parties.
12. The case of the petitioner, in our view, is fully covered by the decision rendered in the case of ***Sunil Goel (Supra)***, wherein the Division Bench of this Court has relied on a decision of the Hon’ble Supreme Court in ***Padmasundara Rao (supra)***. The details of the time period applicable to the present case, is detailed below in the form of a chart.

		Time Lapse
Date of Section 4 notification	27/10/1999	
Date of stay granted by High Court	15/05/2000	6 months 18 days
Date of dismissal from High Court	09/07/2007	
Date of Notice and stay by the Hon’ble Supreme Court	17/09/2007	2 months and 9 days
Date of decision by Hon’ble Supreme Court quashing the declaration	21/03/2012	

u/s & urgency clause u/s 17 of the Land Acquisition Act, 1894		
Declaration u/s 6	20/03/2013	11 months 27 days
Total time lapse		1 Year 8 months 24 days

13. Considering the time line we have detailed hereinabove leaves no room for doubt that the fresh notification under Section 6 of the Act was not issued within a period of one year after deducting the time spent in Court and covered by the stay order granted by the Court i.e. 8 months 24 days for a period of stay granted by the High Court and one month from 09.08.2007 being the period of stay granted by the Supreme Court. Resultantly, the writ petition is allowed. The notification dated 27.10.1999 under Section 4 of the Act and the fresh notification dated 20.03.2013 under Section 6 of the act are quashed.
14. In view of the above, the writ petition stands disposed of.

नस्यमेव जयते

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

AUGUST 06, 2018
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