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

% *Date of Judgment: 23rd February, 2018*

+ W.P.(C) 8075/2017

SH. YOGESH KUMAR Petitioner

Through: Mr.Samit Khosla, Advocate.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr.Sachin Nawani, Advocate for respondent
no.1/UOI.

Mr.Dhanesh Relan and Ms.Gauri
Chaturvedi, Advocates for respondent/DDA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

CM No.33220/2017 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 8075/2017

1. With the consent of the parties, the present writ petition is set down for final hearing and disposal.
2. This is a petition under Article 226 of the Constitution of India filed by the petitioner seeking a declaration that the acquisition proceedings with respect to the land comprised in Khasra No.515/150 situated in

the revenue estate of village Dallupura, 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 although the physical possession has been taken but the compensation with respect to subject land has not been paid to the petitioner.

3. Counsel for the petitioner submits that in this case, the subject land was purchased by Late Shri Mamraj (who was the grandfather of the petitioner) from Shri Khillu by way of a Power of Attorney. The petitioner has become the owner of the subject land by virtue of being one of the legal heirs of Late Shri Mamraj by way of a Special Power of Attorney.
4. The necessary facts to be noticed for disposal of this petition are that a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 22.08.1988, a Notification under Section 6 of the Act was issued on 14.09.1988 and an Award bearing No.05/90-91 was passed on 07.08.1990. Counsel for the petitioner submits that possession has been taken; however, compensation has not been tendered to the petitioner. He also submits that his submission is further fortified by the stand taken by the LAC in the counter affidavit.
5. Counsel for the LAC submits that the subject land vests in Gaon Sabha, thus, the petitioner would not be entitled to claim any compensation. Mr.Jain has also opposed this petition on the ground that the petitioner is not the rightful owner. In support of his

submissions, he relies on paragraph 9 of the counter affidavit, which read as under:

“9. That in the present case, the possession of land falling in Khasra No.515/150(1-04) was taken over and handed over to the beneficiary department, Delhi Development Authority on 21.05.1990. It is respectfully submitted that the compensation to the tune of Rs.2,88,077 of the land has been assessed in the name of Gaon Sabha and as per record no entry has been made for payment”.

6. Per contra, counsel for the petitioner submits that the objection raised by Mr.Jain, as far as title of the land is concerned, be kept open to be decided in appropriate proceedings. Counsel submits further that an identical issue had arisen before another Division Bench of this Court in the case of ***Sanjeev Solanki Vs. Delhi Development Authority and Ors, W.P. (C) 1999/2015***, decided on 24.01.2017. Counsel submits that a similar view has also been expressed by this Court in the case of ***Parshotam Joshi vs. Govt. of NCT of Delhi & Ors., W.P. (C) 4255/2016***, decided on 08.11.2017.
7. We have heard the counsel for the parties.
8. As far as the objection raised by the counsel for the LAC with regard to the land being vested in the Gaon Sabha is concerned, we deem it appropriate to follow a decision rendered by the Division Bench of this Court in the case of ***Sanjeev Solanki (supra)***, paragraph 5 of which reads as under:-

“5. While we have declared that the subject acquisition has lapsed, it is made clear that this would not amount to giving title to the petitioner or perfecting the petitioner's title inasmuch as Mr.Jain has taken the plea in the counter-affidavit filed on behalf of the respondent no.2 that the Gaon Sabha has been shown as the recorded owner. This fact is disputed by the learned counsel for the petitioner. But, we are not entering into

the controversy of title which may be sorted out elsewhere. Insofar as the acquisition is concerned, the same has lapsed because neither physical possession was taken over nor compensation was paid.”

9. On reading of the counter affidavit, it leaves no room for doubt that the physical possession of subject land was taken however; the compensation has not been tendered.
10. Accordingly, the petitioner is entitled to a declaration that the acquisition proceedings in respect of the land subject matter are deemed to have lapsed. It is declared accordingly. However, we make it clear that we have not expressed any opinion on the title of the above land. The question of title of the subject land is left open to be decided in the appropriate court of jurisdiction.
11. The writ petition stands disposed of in above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

FEBRUARY 23, 2018

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